

SUPREME COURT OF WISCONSIN

Office of Lawyer Regulation v. John F. Scanlan, 2008 WI 116

754 N.W.2d 844 (2008) · No. 2004AP1930-D · Decided August 19, 2008

SUMMARY

The Supreme Court of Wisconsin granted John F. Scanlan's petition for reinstatement of his Wisconsin law license following a six-month suspension. Reinstatement was conditioned on submission of a treating mental-health professional's supplemental report, quarterly monitoring of trust-account practices and medications for one year, and payment of proceeding costs.

CASE DETAILS

COURT	Supreme Court of Wisconsin
JURISDICTION	Wisconsin
DECIDED	August 19, 2008
DOCKET	2004AP1930-D
DISPOSITION	other
PROCEDURAL POSTURE	The Office of Lawyer Regulation sought review of a referee's report recommending reinstatement of John F. Scanlan's Wisconsin law license. The court adopted the referee's findings and recommendation and granted reinstatement subject to conditions.
STANDARD OF REVIEW	The Supreme Court of Wisconsin independently reviews the referee's report and determines whether the petitioner established the reinstatement criteria by clear, satisfactory, and convincing evidence.
PRECEDENTIAL VALUE	Published and precedential Wisconsin Supreme Court opinion
PARTIES	Office of Lawyer Regulation v. John F. Scanlan, Attorney at Law

TOPICS

appellate procedure

administrative law

PRACTICE AREAS

legal ethics

attorney discipline

professional licensing

QUESTIONS PRESENTED

1. Whether Scanlan established by clear, satisfactory, and convincing evidence that he satisfied the statutory and rule-based criteria for reinstatement of his Wisconsin law license.
2. Whether reinstatement should be conditioned on a supplemental report from a treating psychiatrist or psychologist, quarterly monitoring of trust-account practices and medications, and payment of the proceeding's costs.

HOLDINGS

1. Scanlan established by clear, satisfactory, and convincing evidence that he satisfied all criteria necessary for reinstatement of his Wisconsin law license, including the required moral character, fitness, compliance with the suspension order, and compliance with SCR 22.26.
2. Reinstatement was properly conditioned on submission of a supplemental treating psychiatrist's or psychologist's report, quarterly monitoring of Scanlan's trust-account practices and medications for one year, and payment of the proceeding's costs.

KEY QUOTATIONS

“The petitioner has the burden of demonstrating “by clear, satisfactory, and convincing evidence” that the lawyer has the moral character to practice law, that the lawyer’s resumption of the practice of law will not be detrimental to the administration of justice or subversive of the public interest, and that the lawyer has complied with SCR 22.26 and the terms of the suspension.” (¶ 19, 754 N.W.2d at 847)

“IT IS ORDERED that the petition for reinstatement of the license of John F. Scanlan is granted, conditioned upon this court’s receipt, within 30 days of the date of this order, of a supplemental report from a treating psychiatrist or psychologist offering the opinion that it is safe and appropriate for Attorney Scanlan to resume the practice of law and clearly delineating the counseling, treatment, and/or medications which, in the treating health professional’s opinion, are reasonably necessary for Attorney Scanlan to continue the practice of law.” (¶ 21, 754 N.W.2d at 848)

FACTUAL BACKGROUND

Scanlan's Wisconsin law license had been suspended for six months because of misconduct involving nine client matters, and he was also subject to a reciprocal suspension in Illinois. During the suspension period, he did not practice law, paid required restitution, maintained legal competence, and demonstrated conduct the referee found exemplary. The referee also found that Scanlan satisfied the reinstatement requirements, including compliance with suspension-related obligations and the ability to practice safely, while recommending a supplemental medical report and continued monitoring of his trust-account practices and medications.

PROCEDURAL HISTORY

Scanlan petitioned for reinstatement on October 5, 2007, after serving a six-month Wisconsin suspension and a reciprocal Illinois suspension. A referee held a hearing on March 18, 2008, and recommended reinstatement subject to medical, trust-account, medication-monitoring, and cost-payment conditions. The Office of Lawyer Regulation did not appeal the referee's report, and the Supreme Court of Wisconsin adopted the report and granted reinstatement subject to modified and specified conditions.

DISPOSITION

other

CASES CITED

- In re Disciplinary Proceedings Against Scanlan, 2006 WI 38, 290 Wis. 2d 30, 712 N.W.2d 877

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