

SUPREME COURT OF OREGON

In re Reinstatement of Gunter, 344 Or. 368

182 P.3d 187 (2008) · No. SC S053579 · Decided March 27, 2008

SUMMARY

The Oregon Supreme Court denied Bruce A. Gunter's application for reinstatement as an active member of the Oregon State Bar. The court held that Gunter failed to establish by clear and convincing evidence that he presently possessed good moral character and general fitness to practice law, particularly in light of his history of substance abuse, employment conduct, and financial dealings. The court reviewed the disciplinary record de novo and affirmed the denial of reinstatement.

CASE DETAILS

COURT	Supreme Court of Oregon
WRITING FOR THE COURT	Per Curiam
JURISDICTION	Oregon
DECIDED	March 27, 2008
DOCKET	SC S053579
DISPOSITION	other
PROCEDURAL POSTURE	Bruce A. Gunter applied for reinstatement as an active member of the Oregon State Bar under BR 8.1. The Oregon State Bar Board of Governors recommended denial, and after referral by the Oregon Supreme Court, a Disciplinary Board trial panel denied reinstatement. The Oregon Supreme Court reviewed the trial panel's order de novo under BR 10.6 and denied reinstatement.
STANDARD OF REVIEW	The Supreme Court reviews the record before the Disciplinary Board de novo pursuant to BR 10.6 and reviews the trial panel's order pursuant to BR 10.2.
PRECEDENTIAL VALUE	published opinion; precedential
PARTIES	Bruce A. Gunter v. Oregon State Bar

TOPICS

- appellate procedure
- standard of review
- burden of proof
- evidence

PRACTICE AREAS

legal ethics

professional responsibility

bar reinstatement

attorney character and fitness

QUESTIONS PRESENTED

1. Whether Gunter proved by clear and convincing evidence that he presently possessed good moral character and general fitness to practice law.
2. Whether Gunter proved that resuming practice would not be detrimental to the administration of justice or the public interest.
3. Whether Gunter demonstrated the requisite learning and ability to practice law after being inactive, suspended, or resigned for the periods specified in BR 8.1(c).

HOLDINGS

1. An applicant for reinstatement must prove by clear and convincing evidence that the applicant presently possesses good moral character and general fitness to practice law and that resuming practice will not be detrimental to the administration of justice or the public interest.
2. Gunter failed to prove by clear and convincing evidence that he had adequately resolved his prior substance-abuse problems and that his substance-use history did not make him a danger to the public or impair his ability to practice law.
3. Gunter's employment conduct, failure to make amends for past financial obligations, conduct involving the NASD supervisory plan, repeated bankruptcies, and related financial circumstances raised substantial doubts about his moral character and financial responsibility.
4. On the circumstances presented, Gunter's reliance on the mortgage broker's statements regarding disclosure of liabilities and tax debt did not, by itself, reflect adversely on his moral character.

KEY QUOTATIONS

“The length of time without evidence of unsatisfactory character needed to permit the conclusion that the actor is now of good moral character varies with, among other things, the person's age, the length of time that the unsatisfactory characteristics were evident and the nature of the unacceptable behavior.” (at 195)

“We decline to hold that a bankruptcy in the history of an applicant for admission to the Bar per se is disqualifying, even if it appears that the financial difficulties that led to the bankruptcy were the fault of the applicant.” (at 198)

“We are left with a substantial doubt whether applicant is prepared to honor his financial obligations in the manner expected of lawyers admitted to the Bar.” (at 199)

FACTUAL BACKGROUND

Gunter had a substantial history of alcohol and drug abuse, including crack cocaine use, criminal convictions, employment termination, and treatment programs. Although he had not used drugs since 1997, the record included conflicting evidence concerning his continued alcohol use and risk of relapse. The court also considered his employment history, financial dealings, two bankruptcies, substantial consumer and tax debt, and

purchase of a home shortly before his second bankruptcy. The court concluded that these circumstances raised substantial doubts about his present moral character, financial responsibility, and fitness to practice law.

PROCEDURAL HISTORY

Gunter had voluntarily resigned from the Oregon State Bar in 2001 after previously being placed on inactive status and suspended for nonpayment of dues. He applied for reinstatement in 2005. The Board of Governors determined that he had not demonstrated present good moral character and general fitness to practice law, and recommended denial. Following a hearing, a trial panel denied reinstatement; the Supreme Court reviewed that decision under BR 10.2 and BR 10.6 and agreed with the denial.

DISPOSITION

other

CASES CITED

- In re Johnson, 300 Or. 52, 55, 707 P.2d 573 (1985)
- Supove et al. v. Densmoor et ux., 225 Or. 365, 372, 358 P.2d 510 (1961)
- In re Nash, 317 Or. 354, 362, 855 P.2d 1112 (1993)
- In re Griffith, 323 Or. 99, 106-07, 913 P.2d 695 (1996)
- In re Fine, 303 Or. 314, 317, 736 P.2d 183 (1987)
- In re Rowell, 305 Or. 584, 587-93, 754 P.2d 905 (1988)
- In re Covington, 334 Or. 376, 378-87, 50 P.3d 233 (2002)
- In re Beers, 339 Or. 215, 217-26, 118 P.3d 784 (2005)
- In re Graham, 299 Or. 511, 520-21, 703 P.2d 970 (1985)
- In re Taylor, 293 Or. 285, 293-94, 647 P.2d 462 (1982)
- In re Scallon, 327 Or. 32, 35-42, 956 P.2d 982 (1998)
- In re Koken, 214 Or. 357, 362, 329 P.2d 894 (1958)
- In re Gahan, 279 N.W.2d 826, 831 (Minn. 1979)