

SUPREME COURT OF OREGON

In re Reinstatement of McKee

333 Or. 209 (2002) · No. SC S48122 · Decided January 10, 2002

SUMMARY

The Oregon Supreme Court approved Robert L. McKee’s conditional reinstatement to the practice of law after an 18-month suspension. The court concluded that McKee demonstrated the requisite moral character, general fitness, learning, and ability to practice law, while requiring completion of specified minimum continuing legal education courses. Justice Leeson dissented, joined by Chief Justice Carson, concluding that McKee had not overcome the characteristics underlying his prior misconduct.

CASE DETAILS

COURT	Supreme Court of Oregon
WRITING FOR THE COURT	Carson, Chief Justice; Gillette, Justice; Durham, Justice; Leeson, Justice; Riggs, Justice; De Muniz, Justice
JURISDICTION	Oregon
DECIDED	January 10, 2002
DOCKET	SC S48122
DISPOSITION	approved
PROCEDURAL POSTURE	Application for reinstatement to the practice of law following an 18-month suspension. The Oregon State Bar recommended denial; after referral and hearing, a trial panel of the Disciplinary Board recommended conditional reinstatement.
STANDARD OF REVIEW	Automatic and de novo review under BR 10.2 and BR 10.6.
PRECEDENTIAL VALUE	Published, precedential Oregon Supreme Court opinion
PARTIES	Robert L. McKee, Applicant v. Oregon State Bar

TOPICS

- appellate procedure
- standard of review
- civil procedure

PRACTICE AREAS

- attorney discipline
- bar admission and reinstatement
- professional responsibility

QUESTIONS PRESENTED

1. Whether McKee demonstrated good moral character and general fitness to practice law, and whether his resumption of practice would be detrimental to the administration of justice or the public interest under BR 8.1(b).
2. Whether McKee demonstrated the requisite learning and ability to practice law after being suspended or in suspended status for more than three years under BR 8.1(c).
3. Whether reinstatement should be conditioned on completion of specified minimum continuing legal education requirements.

HOLDINGS

1. McKee demonstrated good moral character and general fitness to practice law, and his resumption of practice would not be detrimental to the administration of justice or the public interest.
2. McKee demonstrated the requisite learning and ability to practice law under BR 8.1(c), but his lengthy absence justified requiring updated legal education as a condition of reinstatement.
3. Conditional reinstatement was approved, requiring McKee to complete specified MCLE courses before actively practicing and during the first year following reinstatement.
4. A prior letter of admonition may be relevant evidence in determining whether an applicant meets the moral-character qualification for reinstatement.

KEY QUOTATIONS

“This court must consider two areas of fitness to determine whether applicant should be reinstated.” (213)

“Conditional reinstatement approved.” (214)

FACTUAL BACKGROUND

McKee had practiced law since 1954 and had received prior discipline, including a two-year suspension, two letters of admonition, and an 18-month suspension imposed in 1993 for eight disciplinary-rule violations involving neglect, misrepresentation, false statements to a tribunal, and conflicts of interest. He initially became eligible to seek reinstatement in 1995 but delayed his application because of illness; he applied in 1997 after his health improved. The trial panel found that McKee possessed good moral character, general fitness, and the ability to practice law, while concluding that his lengthy absence required updated legal education.

PROCEDURAL HISTORY

McKee applied for reinstatement after remaining suspended since the court imposed an 18-month suspension in 1993. The Oregon State Bar recommended denial, and the Supreme Court referred McKee's petition for review to the Disciplinary Board under BR 8.8. Following a hearing, the Disciplinary Board trial panel recommended reinstatement subject to minimum continuing legal education requirements. The Supreme Court reviewed the matter automatically and de novo and approved conditional reinstatement.

DISPOSITION

approved

CASES CITED

- In re McKee, 316 Or. 114, 849 P.2d 509 (1993)
- In re McKee, 229 Or. 67, 365 P.2d 120 (1961)
- In re Griffith, 323 Or. 99, 106-07, 913 P.2d 695 (1996)
- In re Cohen, 330 Or. 489, 500, 8 P.3d 953 (2000)

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