

SUPREME COURT OF MINNESOTA

In re Reinstatement of Mose

843 N.W.2d 570 (Minn. 2014) · Decided March 12, 2014

SUMMARY

The Minnesota Supreme Court denied William G. Mose’s second petition for reinstatement to the practice of law after his indefinite suspension. The court concluded that Mose failed to satisfy a reinstatement condition requiring completion of a trial advocacy course, failed to prove the requisite moral change, and failed to demonstrate intellectual competence to practice law by clear and convincing evidence.

CASE DETAILS

COURT	Supreme Court of Minnesota
WRITING FOR THE COURT	Per Curiam
JURISDICTION	Minnesota
DECIDED	March 12, 2014
DISPOSITION	other
PROCEDURAL POSTURE	Petition for reinstatement to the practice of law following an indefinite suspension. After a Lawyers Professional Responsibility Board panel recommended denial and Mose ordered a transcript of the hearing, the matter proceeded to the Minnesota Supreme Court for independent review.
STANDARD OF REVIEW	The Supreme Court independently reviews the entire record to determine whether reinstatement is warranted. When a transcript of the panel hearing is ordered, the court defers to the panel's credibility assessments and upholds factual findings supported by the record unless clearly erroneous.
PRECEDENTIAL VALUE	Published precedential opinion
PARTIES	William G. Mose v. Director of the Office of Lawyers Professional Responsibility

TOPICS

- appellate procedure
- standard of review

PRACTICE AREAS

legal ethics and professional responsibility

attorney reinstatement

bar discipline

QUESTIONS PRESENTED

1. Whether Mose complied with the condition of reinstatement requiring completion of a qualifying trial advocacy skills course.
2. Whether Mose demonstrated by clear and convincing evidence the requisite moral change for reinstatement.
3. Whether Mose demonstrated by clear and convincing evidence the intellectual competence to resume practicing law.
4. What standard of review governs the Supreme Court's review of an LPRB reinstatement recommendation when the petitioner orders a transcript.

HOLDINGS

1. The Supreme Court independently reviews the entire record, defers to the panel's credibility assessments, and upholds the panel's factual findings when supported by the record and not clearly erroneous.
2. Mose did not satisfy the reinstatement condition requiring completion of a four-day or eight-day trial advocacy skills course or an equivalent program approved by the Director.
3. A suspended lawyer seeking reinstatement must prove by clear and convincing evidence a genuine moral change such that clients can have complete confidence in the lawyer's competence and morality; Mose failed to meet that burden.
4. When an attorney was suspended for incompetence and lack of diligence and has not practiced law for an extended period, passing the bar examination is insufficient by itself; the attorney must also demonstrate legal reasoning and case-management skills through paid or volunteer work. Mose failed to make that showing.

KEY QUOTATIONS

“Generally, the standard for determining whether a disbarred or suspended lawyer should be reinstated focuses on whether the attorney has demonstrated “by clear and convincing evidence that he [or she] has undergone a moral change such that clients can have complete confidence in his [or her] competence and morality.”” (at 574)

“We conclude that when an attorney is suspended for incompetence and lack of diligence, and has not practiced law for an extended period of time, the attorney must not only pass the bar examination, but also demonstrate legal reasoning and case management skills through paid- or volunteer-work experience.” (at 577)

FACTUAL BACKGROUND

Mose was admitted to practice law in Minnesota in 1980 and was publicly reprimanded, placed on probation, and later indefinitely suspended after disciplinary proceedings involving incompetence, client neglect, failure to communicate, failure to follow court orders, and other misconduct involving numerous clients. His suspension order conditioned possible reinstatement on compliance with prior orders, including completion of an approved trial advocacy skills course. In his second reinstatement petition, Mose relied on substitute continuing-legal-education courses, volunteer work, bar-examination passage, and current CLE compliance to show compliance, moral change, and competence. The record showed that he had not obtained approval for the substitute course, had not practiced law or worked full-time in a law-related field since suspension, and had continued conduct and planning deficiencies relevant to the prior misconduct.

PROCEDURAL HISTORY

Mose was indefinitely suspended from practicing law in Minnesota in 1990 after multiple disciplinary proceedings involving incompetence, client neglect, failure to communicate, failure to follow court orders, and related misconduct. His first petition for reinstatement was denied in 2008. In 2012, he filed a second petition; an LPRB panel recommended denial because he had not completed the required trial advocacy course, had not demonstrated the requisite moral change, and had not proved intellectual competence. The Supreme Court adopted the panel's recommendation and denied reinstatement.

DISPOSITION

other

CASES CITED

- In re Mose, 443 N.W.2d 191 (Minn. 1989)
- In re Mose, 458 N.W.2d 100 (Minn. 1990)
- In re Mose, 470 N.W.2d 109 (Minn. 1991)
- In re Reinstatement of Mose, 754 N.W.2d 357 (Minn. 2008)
- In re Kadrie, 602 N.W.2d 868 (Minn. 1999)
- In re Singer, 735 N.W.2d 698 (Minn. 2007)
- In re Anderley, 696 N.W.2d 380 (Minn. 2005)
- In re Reutter, 474 N.W.2d 343 (Minn. 1991)
- In re Lieber, 834 N.W.2d 200 (Minn. 2013)
- In re Swanson, 405 N.W.2d 892 (Minn. 1987)
- In re Ramirez, 719 N.W.2d 920 (Minn. 2006)