

SUPREME COURT OF KENTUCKY

James Wiley Craft v. Kentucky Bar Association

291 S.W.3d 243 (Ky. 2009) · No. 2002-SC-000273-KB · Decided August 27, 2009

SUMMARY

The Supreme Court of Kentucky approved James Wiley Craft's application for reinstatement to the practice of law after reviewing findings that he possessed the requisite character, fitness, and moral qualifications. The court ordered his reinstatement subject to payment of outstanding costs incurred in the reinstatement proceedings.

CASE DETAILS

COURT	Supreme Court of Kentucky
WRITING FOR THE COURT	John D. Minton, Jr.
JURISDICTION	Kentucky
DECIDED	August 27, 2009
DOCKET	2002-SC-000273-KB
DISPOSITION	approved
PROCEDURAL POSTURE	James Wiley Craft applied for reinstatement to the Kentucky Bar after resigning under disbarment. The Character and Fitness Committee recommended reinstatement, and the Kentucky Bar Association Board of Governors unanimously approved that recommendation.
PRECEDENTIAL VALUE	published

TOPICS

appellate procedure

PRACTICE AREAS

professional responsibility

attorney reinstatement

bar discipline

QUESTIONS PRESENTED

1. Whether Craft proved by clear and convincing evidence that he possessed the character, fitness, moral qualifications, and professional capabilities required for reinstatement to the Kentucky bar.

2. Whether the Supreme Court of Kentucky should adopt the Character and Fitness Committee and Board of Governors' recommendation to reinstate Craft, subject to payment of disciplinary proceeding costs.

HOLDINGS

1. Craft established by clear and convincing evidence that he possessed the requisite character, fitness, moral qualifications, and professional capabilities for readmission to the practice of law.
2. Craft was reinstated to membership in the Kentucky Bar Association and to the practice of law in Kentucky, subject to payment of the costs incurred in the reinstatement proceeding and \$4,467.49 owed to the Kentucky Bar Association.

KEY QUOTATIONS

“An applicant for reinstatement who applies for reinstatement on or after October 1, 1998, and who appears before the Committee, has the burden of proving by “clear and convincing” evidence that he or she possesses the requisite character, fitness and moral qualifications for re-admission to the practice of law.” (291 S.W.3d at 244)

“Additionally, applicants are to be held to a substantially more rigorous standard than a first time applicant, and the proof presented must be sufficient to overcome the prior adverse judgment.” (291 S.W.3d at 244)

FACTUAL BACKGROUND

James Wiley Craft was admitted to practice law in Kentucky in 1970 and was temporarily suspended after a felony conviction under 18 U.S.C. § 1621. He subsequently resigned under disbarment and later sought reinstatement. After investigation and a formal hearing, the Character and Fitness Committee found that Craft demonstrated good moral character, recognized the conduct leading to his disbarment, and satisfied the requirements for reinstatement; the Board of Governors approved those findings.

PROCEDURAL HISTORY

Craft was temporarily suspended after a federal felony conviction and later resigned under disbarment pursuant to SCR 3.480(3). He filed an application for reinstatement in 2002, updated it in 2006, and received a favorable recommendation from the Character and Fitness Committee after a formal investigation and hearing. The Board of Governors approved the recommendation by a vote of 15-0, and the Supreme Court of Kentucky adopted the recommendation and ordered reinstatement subject to payment of costs.

DISPOSITION

approved

CASES CITED

- In re Weaks, 407 S.W.2d 408, 409 (Ky. 1966)
- In re Stump, 272 Ky. 593, 114 S.W.2d 1094 (1938)
- Kentucky Bar Association v. James Wiley Craft, 962 S.W.2d 876 (Ky. 1998)

- James Wiley Craft v. Kentucky Bar Association, 969 S.W.2d 211 (Ky. 1998)

OPINION

Craft v. KENTUCKY BAR ASS'N 291 S.W.3d 243

MINTON, J.

291 S.W.3d 243 (2009) James Wiley CRAFT, Movant, v. KENTUCKY BAR ASSOCIATION, Respondent. No. 2002-SC-000273-KB. Supreme Court of Kentucky. August 27, 2009.

OPINION AND ORDER

This matter comes before the Court on the application for reinstatement filed by James Wiley Craft pursuant to SCR 3.510(5). The Character and Fitness Committee found that Craft presently exhibits good and moral character and appreciates the prior actions which led to his disbarment. Based on these findings, the Committee recommended that Craft be reinstated to the bar. The Board of Governors reviewed the Committee's recommendation and voted to approve the application. We agree with the Board's recommendation and hereby approve Craft's application for reinstatement. Movant, James Wiley Craft, whose KBA membership number is 15530 and whose bar roster address is P.O. Box 824, Whitesburg, KY 41858, was admitted to the practice of law in this Commonwealth in August of 1970. After a felony conviction under 18 U.S.C. § 1621, Craft was temporarily suspended by Opinion and Order of this Court dated February 19, 1998.[1] Thereafter, Craft sought to terminate disciplinary proceedings by filing a motion to *244 resign under disbarment pursuant to SCR 3.480(3), which was granted by this Court on June 18, 1998.[2] Craft subsequently sought reinstatement by application filed on April 1, 2002, and updated on April 14, 2006. Pursuant to SCR 3.510(4), his application was referred to the Character and Fitness Committee and a full investigation followed. On May 15, 2007, following the conclusion of the investigation, the Committee held a formal hearing. The Character and Fitness Committee investigation, hearing, and other reinstatement proceedings are conducted in accordance with SCR 3.500, SCR 3.505, SCR 3.510, SCR 2.040 and SCR 2.050. An applicant for reinstatement who applies for reinstatement on or after October 1, 1998, and who appears before the Committee, has the burden of proving by "clear and convincing" evidence that he or she possesses the requisite character, fitness and moral qualifications for re-admission to the practice of law. SCR 3.330. Additionally, applicants are to be held to a substantially more rigorous standard than a first time applicant, and the proof presented must be sufficient to overcome the prior adverse judgment. In re Weeks, 407 S.W.2d 408, 409 (Ky.1966); In re Stump, 272 Ky. 593, 114 S.W.2d 1094 (1938). Based on the evidence of record and the testimony heard, the Character and Fitness Committee found that Craft met the threshold for reinstatement. The matter was then referred to the Board of Governors of the Kentucky Bar Association. After deliberation, the Board of Governors approved the findings and recommendations of the Committee. Accordingly, by a vote of 15-0, the Board of Governors has recommended the approval of Craft's application for reinstatement to the practice of law. Craft has complied with every term of his disbarment and has shown through clear and

convincing evidence that he possesses sufficient professional capabilities to serve the public as a lawyer. Additionally, the evidence clearly shows that he is of good and moral character, and that his readmission would not be a detriment to the legal profession. Consideration of the record and the report of the Board of Governors convince us that Craft is entitled to reinstatement at this time. Accordingly, we hereby adopt the recommendation of the Board of Governors and approve the entry of an order reinstating James Wiley Craft, KBA Member No. 15530, to the practice of law in the Commonwealth of Kentucky. The KBA also petitions this Court for payment of costs incurred pursuant to SCR 3.510(1). Craft posted a bond in the amount of \$8,300.00 to secure costs, but in this case the bond was not enough to pay the protracted proceedings of reinstatement. As a result, the KBA has incurred additional costs of \$4,467.49. Thus, IT IS HEREBY ORDERED that: James Wiley Craft, KBA Member No. 15530, is reinstated to membership in the Kentucky Bar Association and to the practice of law in the Commonwealth of Kentucky, subject to his payment of costs incurred in this proceeding and \$4,467.49 for balance due to the Kentucky Bar Association as required by SCR 3.500(5). All sitting. All concur. ENTERED: August 27, 2009. /s/ John D. Minton, Jr.

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CHIEF JUSTICE

NOTES

[1] Kentucky Bar Association v. James Wiley Craft, 962 S.W.2d 876 (Ky.1998).

[2] James Wiley Craft v. Kentucky Bar Association, 969 S.W.2d 211 (Ky.1998).