

SUPREME COURT OF INDIANA

In the Matter of Douglas O. Beerbower

938 N.E.2d 217 (Ind. 2010) · No. 02S00-0704-DI-176 · Decided December 10, 2010

SUMMARY

The Supreme Court of Indiana conditionally reinstated Douglas O. Beerbower to the practice of law after his disciplinary suspension. Reinstatement was conditioned on at least three years of probation, continued participation in the Indiana Judges and Lawyers Assistance Program, and compliance with the program agreement, the law, and the Rules of Professional Conduct.

CASE DETAILS

COURT	Supreme Court of Indiana
JURISDICTION	Indiana
DECIDED	December 10, 2010
DOCKET	02S00-0704-DI-176
DISPOSITION	other
PROCEDURAL POSTURE	Petition for reinstatement to the Indiana bar following a disciplinary suspension.
PRECEDENTIAL VALUE	Published opinion
PARTIES	Douglas O. Beerbower v. Indiana Supreme Court Disciplinary Commission

TOPICS

appellate procedure administrative law

PRACTICE AREAS

attorney discipline legal ethics bar reinstatement

QUESTIONS PRESENTED

- Whether Beerbower satisfied the requirements for reinstatement to the practice of law under Indiana Admission and Discipline Rule 23.
- Whether reinstatement should be conditioned on continued participation in the Indiana Judges and Lawyers Assistance Program and a period of probation.

HOLDINGS

1. A petition for reinstatement may be granted only when the petitioner proves by clear and convincing evidence the requirements set out in Indiana Admission and Discipline Rule 23(4)(b), including good-faith desire for reinstatement, compliance with the disciplinary order, genuine remorse, exemplary post-discipline conduct, fitness to practice, removal of any disability related to the discipline, and passage of the MPRE with the required score.
2. Beerbower was conditionally reinstated subject to probation of at least three years, continued participation in JLAP, no violations of his JLAP agreement, the law, or the Rules of Professional Conduct, and possible revocation of probation and reimposition of suspension if probation was violated.

KEY QUOTATIONS

“A petition for reinstatement may be granted only if the petitioner proves to the Commission by clear and convincing evidence that:” (938 N.E.2d at 217)

“IT IS, THEREFORE, ORDERED that Petitioner's petition for reinstatement is granted and that Petitioner is conditionally reinstated as a member of the Indiana bar subject to the terms and conditions of probation stated above.” (938 N.E.2d at 218)

FACTUAL BACKGROUND

Beerbower had been suspended from practicing law after being incarcerated for operating a vehicle while intoxicated. He had entered into a treatment and monitoring agreement with the Indiana Judges and Lawyers Assistance Program in 2006 and sought reinstatement in January 2010. The Disciplinary Commission recommended reinstatement conditioned on his continued participation in that program.

PROCEDURAL HISTORY

The Indiana Supreme Court suspended Beerbower on August 31, 2007, for two years or for as long as he remained incarcerated for operating a vehicle while intoxicated, whichever was longer, without automatic reinstatement. Beerbower petitioned for reinstatement on January 22, 2010, and the Indiana Supreme Court Disciplinary Commission recommended reinstatement conditioned on his continued participation in the Indiana Judges and Lawyers Assistance Program. The Supreme Court granted conditional reinstatement subject to at least three years of probation.

DISPOSITION

other

OPINION

PER CURIAM.

938 N.E.2d 217 (2010) In the Matter of Douglas O. BEERBOWER, Petitioner. No. 02S00-0704-DI-176. Supreme Court of Indiana. December 10, 2010. PUBLISHED ORDER GRANTING

CONDITIONAL REINSTATEMENT On August 31, 2007, this Court entered an order suspending Petitioner for two years or as long as Petitioner was incarcerated for Operating a Vehicle While Intoxicated, whichever was longer, without automatic reinstatement.

Petitioner entered into a treatment and monitoring agreement with the Indiana Judges and Lawyers Assistance Program ("JLAP") in 2006. Petitioner filed a petition for reinstatement on January 22, 2010. On November 17, 2010, the Indiana Supreme Court Disciplinary Commission, pursuant to Indiana Admission and Discipline Rule 23(18)(b), filed its recommendation that Petitioner be reinstated to the practice of law in Indiana conditioned on Petitioner's continued participation in JLAP.

A petition for reinstatement may be granted only if the petitioner proves to the Commission by clear and convincing evidence that: (1) The petitioner desires in good faith to obtain restoration of his or her privilege to practice law; (2) The petitioner has not practiced law in this State or attempted to do so since he or she was disciplined; (3) The petitioner has complied fully with the terms of the order for discipline; (4) The petitioner's attitude towards the misconduct for which he or she was disciplined is one of genuine remorse; (5) The petitioner's conduct since the discipline was imposed has been exemplary and above reproach; (6) The petitioner has a proper understanding of and attitude towards the standards that are imposed upon members of the bar and will conduct himself or herself in conformity with such standards; (7) The petitioner can safely be recommended to the legal profession, the courts and the public as a person fit to be consulted by others and to represent them and otherwise act in matters of trust and confidence, and in general to aid in the administration of justice as a member of the bar and an officer of the Courts; (8) The disability has been removed, if the discipline was imposed by reason of physical or mental illness or infirmity, or for use of or addiction to intoxicants or drugs; (9) The petitioner has taken the Multistate Professional Responsibility Examination (MPRE) within six (6) months before or after the date the petition for reinstatement is filed and passed with a scaled score of eighty (80) or above.

Admis. Disc. R. 23(4)(b). This Court, being duly advised, finds that Petitioner should be reinstated as a member of the Indiana bar subject to probation of at least three years on the following terms and conditions: (1) Petitioner shall continue his participation in JLAP.

(2) Petitioner shall have no violations of his JLAP agreement, the law, or the Rules of Professional Conduct during his probation. *218 (3) If Petitioner violates his probation, the Commission may petition the Court to revoke his probation and to re-impose his suspension without automatic reinstatement. Petitioner's probation shall remain in effect until it is terminated pursuant to Admission and Discipline Rule 23(17.1).

IT IS, THEREFORE, ORDERED that Petitioner's petition for reinstatement is granted and that Petitioner is conditionally reinstated as a member of the Indiana bar subject to the terms and

conditions of probation stated above.

The Clerk is directed to forward a copy of this Order to the hearing officer, to the parties or their respective attorneys, and to all other entities entitled to notice under Admission and Discipline Rule 23(3)(d). The Clerk is further directed to post this order to the Court's website, and Thomson Reuters is directed to publish a copy of this order in the bound volumes of this Court's decisions.

All Justices concur.