

STATE OF MAINE

SUPREME JUDICIAL COURT
DOCKET NO. BAR-04-7

BOARD OF OVERSEERS OF THE BAR
Plaintiff

v.

ORDER ON
PETITION FOR REINSTATEMENT

RICHARD B. SLOSBERG, ESQ.
of Portland, Maine
Me. Bar # 3446
Defendant

This matter is before the Court pursuant to M. Bar R. 7.3(j)(1), (5) on the petition of Richard B. Slosberg for reinstatement as a member in good standing of the Maine Bar. Mr. Slosberg was disbarred by Order of this Court dated February 22, 2005, for violation of Maine Bar Rules 3.1(a), 3.2(f)(4), and 3.7(e)(2)(vi).

The petition for reinstatement was opposed by Bar counsel, and the matter was referred to the Grievance Commission. *See* M. Bar R. 7.3(h)(5). The Grievance Commission held a hearing on the petition for reinstatement, and following the hearing, issued findings, and recommended against the reinstatement of Mr. Slosberg. *See* M. Bar R. 7.3(j)(5)(A)-(F).

Pursuant to M. Bar R. 7.3(j)(6), the Report of the Panel was filed with this Court. The Board of Bar Overseers followed the recommendation of the

Grievance Commission, and recommended that the petition for reinstatement be denied.

The matter was assigned to the undersigned Justice. A hearing on the petition for reinstatement was held on October 16, 2007, at the Cumberland County Courthouse. The Board was represented by Bar Counsel J. Scott Davis. Richard Slosberg represented himself. Testifying were Mr. Slosberg, and Assistant Bar Counsel Aria eee.

In a reinstatement proceeding, the burden is on the petitioner to demonstrate, by a clear and convincing standard, that he is entitled to reinstatement based on all of the factors set out in M. Bar R. 7.3(j)(5).¹

¹ M. Bar R. 7.3(j)(5) provides in pertinent part:

Factors to be considered as to the petitioner's meeting that burden include evidence that:

- (A) The petitioner has fully complied with the terms of all prior disciplinary orders;
- (B) The petitioner has neither engaged nor attempted to engage in the unauthorized practice of law;
- (C) The petitioner recognizes the wrongfulness and seriousness of the misconduct;
- (D) The petitioner has not engaged in any other professional misconduct since resignation, suspension or disbarment;
- (E) The petitioner has the requisite honesty and integrity to practice law;
- (F) The petitioner has met the continuing legal education requirements of Rule 12(a)(1) for each year the attorney has been inactive, withdrawn or prohibited from the practice of law in Maine, but need not complete more than 22 credit hours of approved continuing legal education for that entire period of absence from practice with at least two credit hours being primarily concerned with the issues of ethics or professional responsibility.

The Court finds that as to Rule 7.3(j)(5)(C), petitioner Slosberg has failed to demonstrate by a preponderance of the evidence, much less by clear and convincing evidence, that he recognizes the wrongfulness and seriousness of the misconduct for which he was disbarred.

In the February 22, 2005, order disbaring Mr. Slosberg, the Court accepted the testimony of Shawn Willson, M.D., a psychiatrist who treated Mr. Slosberg and who diagnosed him as Bipolar I and suffering from depression. She described Mr. Slosberg as “irrational and prone to rages,” who did not follow recommended dosages of prescription drugs. She concluded that he had “difficulty appreciating the inappropriateness of his [bad] conduct” and stated that he did “not have the capacity to look at himself insightfully.”

In a later opinion, expressed in an April 1, 2005, letter to the Court,² Dr. Willson stated that Mr. Slosberg had improved with medication, and that he “can return to the practice of law without any restrictions and would be a low risk for behavioral problems” if he continued with his medication and his counseling. Mr. Slosberg, however, has discontinued his medication, and no longer consults with Dr. Willson or any other mental health professional.

² Admitted without objections at the reinstatement hearing as Board Exhibit #24.

Moreover, the conduct of Mr. Slosberg in connection with a Bar Discipline proceeding involving another attorney, conduct which occurred since Mr. Slosberg's disbarment, demonstrates that Mr. Slosberg does not fully recognize the wrongfulness and seriousness of the misconduct that resulted in his disbarment.

In August of 2005, Mr. Slosberg himself filed a complaint with the Board of Overseers against an attorney who practices law in York County. Slosberg's letter of complaint contained two allegations of misconduct against the attorney. The first complaint alleged that the attorney engaged in assaultive conduct. The second complaint alleged that the attorney filed a false affidavit with the Superior Court in York County in connection with a motion for a summary judgment filed in a case in which the attorney was representing one of the parties.

Mr. Slosberg had no involvement in the case out of which the alleged assault by the attorney arose, and did not observe the alleged assault. Mr. Slosberg apparently was involved, prior to his disbarment, in the case in which the allegedly false affidavit was filed, but was not involved in the case at the time of the filing of the affidavit. Mr. Slosberg's friend, Attorney Herschel Lerman of York County, was involved in both cases, and Attorney Lerman was the source of knowledge of the facts alleged in Mr. Slosberg's letter of complaint against the York County attorney.

After preliminary review of Mr. Slosberg's complaint by a panel of the Grievance Commission, to which the complaint had been referred *see* M. Bar R. 7(d)(1)(A), that preliminary review panel decided that a Bar discipline case should proceed against the York County attorney, but on only one of the two matters set out in Mr. Slosberg's complaint letter, namely the alleged assault committed by the attorney, to which Mr. Slosberg was not a witness. *See* M. Bar R. 7.1(e)(1). A disciplinary petition was filed by Bar Counsel against the York County attorney concerning the alleged assaultive behavior. No further action was taken on the allegation concerning the filing of a false affidavit, and the petition filed by bar counsel with the Grievance Commission does not allege any misconduct arising out of the filing of the affidavit. Pursuant to Rule 7.1(e)(2), a hearing before a different Grievance Commission Panel on the petition filed by Bar counsel against the York County attorney was held on August 28, 2006.

A partial transcript of that Grievance Panel hearing concerning the attorney from York County was provided to this Court in this case involving Mr. Slosberg's petition for reinstatement. In addition, Mr. Slosberg and Deputy Bar Counsel *see* both testified about Mr. Slosberg's participation in that Grievance Panel hearing. The evidence shows that at that hearing, Mr. Slosberg attempted to have the Grievance Panel address the allegation concerning the filing of a false affidavit,

conduct that the initial Panel did not recommend be pursued, and that Bar Counsel was not pursuing in its petition before the Grievance Panel. That Mr. Slosberg, at the hearing before the Grievance Panel dealing only with an allegation of an assault, insisted that the Grievance Panel address an additional allegation about the filing of a false affidavit, which had been found not worthy of pursuing, and which was not being pursued by Bar Counsel, demonstrates, at the very least, poor judgment on the part of Mr. Slosberg.

That poor judgment was compounded at the August 28, 2006, Grievance Panel hearing when Mr. Slosberg argued to the Board that he had a right to address the Panel on the false affidavit allegation contained in his initial complaint to the Board of Overseers. Mr. Slosberg continued to press the matter before the Panel, and insisted that he had a right to bring the matter before the Panel, and to make an opening statement to the Panel even after he was told by the Panel Chair that the false affidavit allegation was not before the Panel, and that he had no standing to make an opening statement in that proceeding that had been initiated by a petition filed by Bar Counsel. Mr. Slosberg displayed poor judgment at the hearing and his conduct was inappropriate, and reflects that he does not recognize either the wrongfulness or the seriousness of that behavior. *See* M. Bar R. 7.3(j)(5)(C).

