

STATE OF MAINE

SUPREME JUDICIAL COURT

DOCKET NO. BAR-13-16

In re: Edwin R. Jonas III Petition
for Reinstatement to the Maine Bar

JUDGMENT AFTER REMAND

Edwin R. Jonas III filed a petition for reinstatement to the Maine bar, which I denied in an order dated June 22, 2015. Jonas appealed that order to the Law Court and, after issuing an initial opinion affirming that order, the Court granted Jonas's motion for reconsideration. *In re Jonas*, 2017 ME 115, ¶ 17, 164 A.3d 120. In its order granting Jonas's motion, the Court stated,

Having considered the arguments of Jonas and the Board, we are persuaded that we must amend our opinion to authorize a limited remand for the single justice to consider whether to admit, as evidence upon which reasonable people would rely, (1) specific evidence that Jonas offered and the justice excluded based on the Rules of Evidence and that was not otherwise admitted at trial, and (2) at the discretion of the single justice, evidence of events or decisions that occurred after the close of evidence in the original trial before the single justice.

After determining whether any previously excluded—or new—evidence should be admitted, the single justice must decide whether any newly admitted materials or recent developments alter any aspect of her decision.

In re Jonas, No. Cum-15-345 (Me. Law Ct., June 6, 2017) (Saufley, C.J.).

After the revised opinion was certified on June 23, 2017, I held a July 12, 2017, conference with James M. Bowie, Esq., counsel for Jonas, and Aria Eee,

Esq., Deputy Bar Counsel. At that time, I scheduled a hearing to be held on September 29, 2017, to allow the parties an opportunity to present whatever previously-excluded or new evidence they wished to offer. In the five months that followed, however, the hearing was continued multiple times due to significant personal challenges experienced by counsel for both parties.

On January 2, 2018, counsel for Jonas filed a motion in limine, asking that the court “expand the record on remand, in order to comply with the basic [tenets] of fair play, justice, and . . . procedural and substantive due process rights” by allowing him to “supplement the record with additional pleadings and orders from courts addressing litigation involving Mr. Jonas from 1995 to the present, affidavit and other testimony from trial witnesses, and to allow testimony from additional witnesses.” Bar Counsel filed an objection and, in an order dated January 23, 2018, I denied the motion, noting that the Law Court had established the scope of the remanded case and that I intended to comply with those parameters.

Thereafter, both counsel again faced some significant personal challenges, causing some additional delay. Counsel conferred with the court and agreed that, in lieu of a hearing, each side would submit its exhibits and a written closing argument. Bar Counsel filed six exhibits on April 5, 2018, which were the following decisions of other courts:

- Superior Court of New Jersey, Order dated April 7, 2017, *Linda B. Jonas v. Edwin R. Jonas*
- United States Court of Appeals for the Ninth Circuit, Memorandum Decision dated March 23, 2016, *Jonas v. Waterman*, 645 F. App'x 576 (9th Cir. 2016)
- United States Court of Appeals for the Ninth Circuit, Memorandum Decision dated March 23, 2016, *Jonas v. Richardson*, 645 F. App'x 541 (9th Cir. 2016)
- United States Court of Appeals for the Third Circuit, Memorandum Decision dated September 23, 2015, *Jonas v. Gold*, 627 F. App'x 134 (3d Cir. 2015)
- United States Court of Appeals for the Ninth Circuit, Memorandum Decision dated July 30, 2015, *Blacktail Mountain Ranch Co., LLC v. Jonas*, 611 F. App'x 430 (9th Cir. 2015)
- United States Court of Appeals for the Ninth Circuit, Memorandum Decision dated April 17, 2015, *Jonas v. Jonas*, 599 F. App'x 803 (9th Cir. 2015)

On April 6, 2018, Jonas filed his two exhibits—a transcript from an April 23, 2008, United States Tax Court proceeding and a transcript from a November 18, 2002, deposition of Linda Jonas in the Florida Circuit Court case of *Linda Jonas v. Holly Schuttler*. Jonas filed his closing argument on April 25, 2018, and the Board filed its closing argument on May 9, 2018.

Before I address the merits of Jonas's petition, I must clarify the criteria for reinstatement by which I considered this matter on remand. When my original decision was issued on June 22, 2015, former M. Bar R. 7.3(j)(5) (Tower

2014) set out the criteria for reinstatement.¹ I therefore evaluated Jonas's petition according to the criteria for reinstatement in Rule 7.3(j)(5) in effect at the time.

Eight days later, on July 1, 2015, the amended Maine Bar Rules took effect. M. Bar R. 33. Among other amendments, former Rule 7.3(j) was abrogated and the bulk of its provisions were incorporated into multiple of the current Maine Bar Rules. *See* M. Bar R. 4, 28, 29 Reporter's Notes to 2015 amend. Moreover, the Maine Bar Rules as amended in 2015 expressly state that its provisions must be applied to "all new and pending complaints and proceedings." M. Bar R. 33; *see* M. Bar R. 33 Reporter's Notes to 2015 amend. ("To ensure fairness and consistency, the committee determined that these Rules must apply not only to new complaints brought after the rules go into effect, but also to any complaints initiated prior to the effective date, as well as to any ongoing proceedings. In addition, Rule 33 provides that all attorneys

¹ Pursuant to M. Bar R. 7.3(j)(5) (Tower 2014), it was Jonas's burden, as the petitioning party, to establish, by clear and convincing evidence, the necessary requirements for reinstatement:

[T]he petitioner . . . shall have the burden of presenting clear and convincing evidence demonstrating the moral qualifications, competency, and learning in law required for admission to practice law in this State. The petitioner shall also offer clear and convincing evidence that it is likely that reinstatement will not be detrimental to the integrity and standing of the Bar, the administration of justice, or to the public interest.

Rule 7.3(j)(5) further listed a series of "[f]actors to be considered as to the petitioner's meeting that burden." M. Bar R. 7.3(j)(5) (Tower 2014).

seeking reinstatement following the effective date, including those disciplined under the former Maine Bar Rules, must comply with the reinstatement provisions of these Rules.”). Thus, since July 1, 2015, the criteria for reinstatement for a disciplinary suspension of more than six months have been those set out in M. Bar R. 29(e), and it is these criteria according to which I now evaluate Jonas’s petition on remand.²

Rule 29 requires that petitions for reinstatement must be evaluated according to a list of criteria that closely resembles the list of factors in former Rule 7.3(j)(5):

(e) Criteria for Reinstatement. A petitioner may be reinstated only if the petitioner meets each of the following criteria:

(1) the petitioner has fully complied with the terms and conditions of all prior disciplinary orders issued in Maine or in any other jurisdiction except to the extent they are abated under Rule 30, unless such suspension, disbarment, or discipline is solely the result of reciprocal action resulting from disciplinary action taken by Maine authorities;

(2) the petitioner has not engaged or attempted to engage in the unauthorized practice of law during the period of suspension or disbarment;

(3) if the petitioner was suffering under a physical or mental disability or infirmity at the time of suspension or disbarment,

² Although M. Bar R. 29(e) applied to this matter as of July 1, 2015, both parties continued to refer and cite to former Rule 7.3(j)(5) in these proceedings on remand. Further, notwithstanding the Law Court’s reference to former Rule 7.3(j)(5) in discussing my consideration of Jonas’s petition on remand, *In re Jonas*, 2017 ME 115, ¶ 40, 164 A.3d 120, I assume that the Court intended that I evaluate the matter in accordance with M. Bar. R. 29(e), as is required by M. Bar. R. 33.

including alcohol or other drug abuse, the disability or infirmity has been removed. Where alcohol or other drug abuse was a causative factor in the petitioner's misconduct, the petitioner shall not be reinstated unless:

(A) the petitioner has pursued appropriate rehabilitative treatment;

(B) the petitioner has abstained from the use of alcohol or other drugs for at least one year; and

(C) the petitioner is likely to continue to abstain from alcohol or other drugs;

(4) the petitioner recognizes the wrongfulness and seriousness of the misconduct for which the petitioner was suspended or disbarred;

(5) the petitioner has not engaged in any other professional misconduct since suspension or disbarment;

(6) notwithstanding the conduct for which the petitioner was disciplined, the petitioner has the requisite honesty and integrity to practice law;

(7) the petitioner has met the CLE requirements of Rule 5(a)(1) for each year the attorney has been suspended or disbarred, but need not complete more than 22 hours of approved credit hours for that entire period of absence from practice, provided that (i) no more than one half of the credit hours are earned through in-house courses, self study, or a combination thereof; and (ii) at least two credit hours are primarily concerned with the issues of professionalism as defined in Rule 5(a)(1); and

(8) In addition to all of the requirements in this provision, the attorney shall comply with Rule 4(a) and (b), and remit to the Board an arrearage registration payment equal to the total registration fee that the attorney would have been obligated to pay the Board under Rule 4(a) and (b) had the attorney remained

actively registered to practice in Maine.

M. Bar R. 29(e). Although the format of Rule 29(e) differs from that of former Rule 7.3(j)(5), the import of both versions is that it is the petitioner's burden to establish his compliance with the regulatory, financial, educational, and moral conditions for again becoming an active member of the Maine Bar such that the public interest is adequately protected by his reinstatement.³ Indeed, as the Reporter's Notes for the 2015 amendments state, much of current M. Bar R. 29 is "substantially in accord with" former Rule 7.3(j), and the language of Rule 29(e) in particular is "[a]nalogous" to former Rule 7.3(j)(5). M. Bar R. 29 Reporter's Notes to 2015 amend.

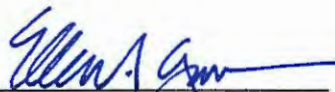
After a review of the new exhibits and the arguments of counsel, as well as the evidence and arguments presented in 2015, I deny Edwin Jonas's petition for reinstatement to the Maine bar. The new evidence presented by the parties confirms that Jonas and his ex-wife have devoted large portions of their lives to getting revenge for whatever slights or misdeeds the other committed. It adds little, however, to the issue to be decided in this matter—that is, Jonas's demonstration of the evidence necessary for reinstatement. Jonas has failed

³ Unlike former Rule 7.3(j)(5), current Rule 29 does not explicitly state that the petitioner must meet this burden according to the clear and convincing standard of proof, but I can discern no reason why the clear and convincing standard is not equally applicable to these proceedings on remand.

to satisfy, by clear and convincing evidence, each of the criteria for reinstatement set out in M. Bar R. 29(e).⁴

Edwin Jonas's petition for reinstatement to the Maine bar is hereby DENIED.

Dated: June 21, 2018



Ellen A. Gorman
Associate Justice

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⁴ Even if former Rule 7.3(j)(5) continued to apply to this matter, I would conclude that Jonas failed to meet his burden for reinstatement according to its criteria.