

IN THE SUPREME COURT OF PENNSYLVANIA

In the Matter of : Nos.1483 & 1649 Disciplinary Docket No. 3
: :
JOHN P. HALFPENNY : Nos. 55 DB 2009 & 166 DB 2010
: :
: Attorney Registration No. 85041
: :
PETITION FOR REINSTATEMENT : (Montgomery County)

ORDER

PER CURIAM

AND NOW, this 16th day of April, 2024, the Petition for Reinstatement is granted. Petitioner is ordered to pay the expenses incurred by the Board in the investigation and processing of the Petition for Reinstatement. See Pa.R.D.E. 218(f).

A True Copy Nicole Traini
As Of 04/16/2024

Attest: 
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

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REPORT AND RECOMMENDATIONS OF
THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

TO THE HONORABLE CHIEF JUSTICE AND JUSTICES
OF THE SUPREME COURT OF PENNSYLVANIA:

Pursuant to Rule 218(c)(5) of the Pennsylvania Rules of Disciplinary Enforcement, The Disciplinary Board of the Supreme Court of Pennsylvania submits its findings and recommendations to your Honorable Court with respect to the above captioned Petition for Reinstatement.

I. HISTORY OF PROCEEDINGS

By Order dated December 10, 2014, the Supreme Court of Pennsylvania accepted John P. Halfpenny's verified statement of resignation dated November 2, 2014, and disbarred him on consent, retroactive to October 7, 2009, the date of the order of temporary suspension. On October 13, 2022, Mr. Halfpenny, Petitioner herein, filed a Petition for Reinstatement to the bar of the Commonwealth of Pennsylvania. On

December 12, 2022, Office of Disciplinary Counsel (“ODC”) filed a response to the Petition. Therein, ODC stated that after investigation it was not aware of any basis to oppose Petitioner’s reinstatement, but identified several potential areas of concern, noted that it was Petitioner’s burden, and reserved its right after testimony and presentation of evidence to modify its position. Petitioner filed supplements to the Petition for Reinstatement on December 15, 2022, December 20, 2022, December 30, 2022, January 20, 2023, February 6, 2023, February 9, 2023, February 13, 2023, February 24, 2023, and March 14, 2023. The parties entered into a Joint Stipulation of Facts filed on April 18, 2023.

Following a prehearing conference on March 1, 2023, the Hearing Committee (“Committee”) held a reinstatement hearing on April 25, 2023. Petitioner appeared pro se, testified on his own behalf and presented the testimony of five additional witnesses. Petitioner introduced exhibits, which were entered without objection and were admitted into evidence. ODC introduced exhibits, which were entered without objection and admitted into evidence.

On May 16, 2023, Petitioner submitted a post-hearing brief to the Committee in support of his reinstatement. On May 19, 2023, ODC submitted a letter in lieu of a brief and advised that it was not opposing Petitioner’s reinstatement. By Report filed on August 14, 2023, the Committee concluded that Petitioner met his reinstatement burden and recommended to the Board that the Petition for Reinstatement be granted.

The Board adjudicated this matter at the meeting on October 28, 2023.

II. FINDINGS OF FACT

The Board makes the following findings:

1. Petitioner was born on May 26, 1966. Joint Stipulation at ¶ 1.

2. As an undergraduate, Petitioner attended the University of Pennsylvania in Philadelphia and received a Bachelor of Arts degree in Economics and Psychology in May 1988. Petitioner then attended Santa Clara University School of Law in Santa Clara, California and received his Juris Doctor in May 1991. Joint Stipulation at ¶ 2.

3. Petitioner was admitted to the California Bar and worked as a practicing attorney in California from 1991 until 1999. Petitioner was admitted to the Pennsylvania Bar in 2000 and practiced law in Pennsylvania until 2008. Joint Stipulation at ¶¶ 2, 3.

4. From 1991 through 2008, Petitioner was an attorney in good standing in both California and Pennsylvania with no record of misconduct, as well as in the federal district and appellate courts to which he had been admitted in both California and Pennsylvania. Joint Stipulation at ¶ 4.

5. Petitioner was married to Mary Bossart Halfpenny from 1991 to 2008. The divorce became final and a decree of divorce was issued around July 2008. They have three children. Joint Stipulation at ¶¶ 5,6. The children were the subject of a lengthy child custody dispute. Petition for Reinstatement, ¶ 16; N.T. 21, 25, 252.

A. PETITIONER'S CRIMINAL CONDUCT, GUILTY PLEA, SENTENCING

6. On January 18, 2007, Ms. Halfpenny obtained a protection from abuse order ("PFA") against Petitioner prohibiting him from having unauthorized contact with her. The PFA was valid through January 2010. Joint Stipulation at ¶ 7.

7. On July 22, 2008, Petitioner was charged with violating the PFA by making approximately 70 to 90 unauthorized telephone calls to Ms. Halfpenny over the course of a five-day period between July 9, 2008 and July 14, 2008, in a criminal case captioned: *Commonwealth v. John Halfpenny*, MC-51-CR-0036787-2008. Joint Stipulation at ¶ 8.

8. Petitioner was charged with violating the PFA a second time after having unauthorized contact with Ms. Halfpenny on August 24, 2008, in a criminal case captioned: *Commonwealth v. John Halfpenny*, MC-51-CR-0048155-2008. These charges were filed on September 24, 2008, after Petitioner was charged in the matter described below. Joint Stipulation at ¶ 9.

9. On September 14, 2008, Petitioner was arrested and charged with attempted aggravated assault (which the prosecution withdrew on or about September 19, 2008), attempted burglary, criminal trespass, stalking, possessing an instrument of crime, terroristic threats, simple assault (which the prosecution withdrew on or about September 19, 2008), recklessly endangering another person (which the prosecution withdrew on or about September 19, 2008), violation of a protective order, and harassment in an incident in which Ms. Halfpenny was the complainant in a criminal case captioned: *Commonwealth v. John Halfpenny*, CP-51-CR-0011907-2008. Joint Stipulation at ¶ 10.

10. The facts underlying the charges for the above-referenced criminal case were that on the evening of September 14, 2008, Petitioner called his former wife's mother and told her that something would happen to all of them, including his former wife. Petitioner then appeared in his former wife's backyard with a beige bag. He was observed fleeing the area and dropping the bag. The bag contained a roll of duct tape, an extension cord, a

book of matches, a pair of leather gloves, a black scarf, and 13-inch kitchen knife. Petitioner's blood was found in several areas of the yard, on the outside of the house, and the surrounding patio area. Joint Stipulation at ¶ 11.

11. On December 5, 2008, Petitioner entered a consolidated guilty and no contest plea in all three of the above-referenced criminal cases to the following charges: attempted burglary (F1); criminal trespass (F2); harassment (M3); three counts of stalking (M3); three counts of contempt for violating a PFA order (M3); and possessing an instrument of crime (M1)(no contest plea). All other charges were withdrawn. Joint Stipulation at ¶ 12.

12. Petitioner reported his conviction to disciplinary authorities as required by Pa.R.D.E. 214(a). Joint Stipulation at ¶ 13.

13. On January 23, 2009, Judge Rose Marie DeFino-Nastasi sentenced Petitioner to a total combined sentence of 25 months to 50 months of incarceration, to be followed by a consecutive 17 years of probation. Joint Stipulation at ¶ 14.

14. On October 15, 2009, while incarcerated at State Correctional Institution ("SCI") Camp Hill, Petitioner was arrested and charged with possession of child pornography and unlawful use of a communication facility for conduct that occurred on January 14, 2007 but was not reported to the police until March 25, 2009, in a criminal case captioned: *Commonwealth v. John Halfpenny*, CP-51-CR-0000170-2010. Joint Stipulation at ¶ 18.

15. The facts underlying the charges for the above-referenced case were that on January 14, 2007, Ms. Halfpenny discovered photographs depicting numerous images of child pornography in a guitar case belonging to Petitioner. In a subsequent letter to Ms.

Halfpenny, Petitioner admitted to downloading the images from their home computer. Ms. Halfpenny did not report the incident to police until more than two years later on March 25, 2009, and Petitioner was subsequently charged. Petitioner was in custody serving the sentence imposed on him by Judge DeFino-Nastasi at the time of his arrest on the new charges. Joint Stipulation at ¶ 19.

16. Petitioner testified at the reinstatement hearing as to the circumstances of his possession of child pornography, which occurred prior to the attempted burglary matter. Petitioner and his former wife were still married but the marriage was disintegrating. One night, Petitioner was surfing the internet for pornography, followed a link that led to a child pornography site and looked at the site for approximately 30 minutes to an hour, and does not dispute that there were 60 images. Petitioner stated that the case was indefensible and reprehensible. N.T. 47, 48.

17. On February 24, 2010, Petitioner pled guilty to possession of child pornography (F3) and unlawful use of a communication facility (F3) in the above-referenced criminal case. Joint Stipulation at ¶ 20.

18. Petitioner reported his conviction to disciplinary authorities as required by Pa.R.D.E. 214(a). Joint Stipulation at ¶ 22.

19. On June 8, 2010, Judge Thomas Dempsey sentenced Petitioner in the above referenced criminal case on both charges to a total combined sentence of 5 months to 23 months of incarceration, to be followed by a consecutive three year period of probation. Judge Dempsey further ordered that the sentence imposed be served consecutively to the sentence imposed by Judge DeFino-Nastasi. Joint Stipulation at ¶ 21.

B. PETITIONER'S INCARCERATION AND PROBATION

20. Petitioner remained in custody and served a continuous period of confinement from September 14, 2008 until October 15, 2014, as a result of his criminal convictions. Joint Stipulation at ¶ 29.

21. On October 15, 2014, Petitioner was released from custody at SCI Camp Hill and placed on probation supervision. Joint Stipulation at ¶ 30.

22. On February 22, 2017, Petitioner's probation officer filed a petition with the court requesting Petitioner be granted early release from probation supervision in the possession of child pornography criminal case in which he was sentenced by Judge Dempsey (CP-51-CR-0000170-2010). Joint Stipulation at ¶ 37.

23. By Order dated March 9, 2017, Judge Frank Palumbo granted the petition for early release and terminated Petitioner's probation in the above-referenced criminal case. Joint Stipulation at ¶ 38.

24. On September 5, 2019, Petitioner filed a petition with the court requesting he be granted early release from probation supervision in the attempted burglary criminal case in which he was sentenced by Judge DeFino-Nastasi (CP-51-CR-0011907-2008). Joint Stipulation at ¶ 39.

25. By Order dated September 19, 2019, Judge DeFino-Nastasi granted the petition for early release and terminated Petitioner's probation in the above-referenced criminal case. Judge DeFino-Nastasi's order released Petitioner from probation 12 years early. Joint Stipulation at ¶ 40.

26. Petitioner has not engaged in any unlawful activities since his release from

custody on October 15, 2014. Joint Stipulation at ¶ 41.

C. PETITIONER'S REHABILITATION

27. While incarcerated pre-sentencing at Curran-Fromhold Correctional Facility in Philadelphia, Petitioner voluntarily participated in the OPTIONS Program from in or about October 2008 through mid-January 2009, graduating in mid-January 2009. The OPTIONS Program provides substance-use disorder treatment to inmates in specialized housing units. Petition for Reinstatement ¶ 91; P-30(A).

28. While incarcerated at SCI Camp Hill, in addition to participating in other treatment and rehabilitation programs, Petitioner participated in the Department of Correction's Drug and Alcohol therapy program and successfully completed the program in or about the late fall of 2009 or early winter of 2010. During his incarceration, Petitioner participated in voluntary AA meetings several times a week at SCI Camp Hill. Petition for Reinstatement ¶ 92; P-30(C); N.T. 54.

29. While incarcerated, Petitioner took all of the cognitive programs that were available to inmates: alcohol and drug program, victim awareness program, low-intensity sexual offender program (due to the child pornography charges), character development, and good citizenship. N.T. 55.

30. While incarcerated, Petitioner worked full-time in the prison library, formed a book club for inmates, and tutored inmates to help them pass the General Education Development test ("GED"). The Department of Correction's Education program recognized Petitioner for his "Dedication and Assistance in the Library Program." Petitioner also taught guitar lessons. Petitioner Post Hearing Brief (PPHB) ¶¶ 41, 46, 48;

N.T. 54-57.

31. In December 2014, shortly after his release from SCI Camp Hill, Petitioner commenced extensive psychological counseling with Harry Orenstein, Ph.D., a clinical psychologist, then based in Chestnut Hill. This counseling lasted until approximately January 2016, at which time Petitioner moved to York, Pennsylvania. Petition for Reinstatement ¶¶ 94, 100; N.T. 185, 250, 251.

32. During the summer of 2015, at the direction of the Honorable Dianne Thompson of the Philadelphia Family Court, Petitioner sought and obtained a psychological evaluation at the Joseph J. Peters Institute (JJPI) in Philadelphia. The clinical assessment was performed by Barry Zakireh, Ph.D., the Director of Forensic Programs at JJPI. Dr. Zakireh prepared a written "Summary of Forensic Psychosexual Evaluation," dated August 4, 2015. Petition for Reinstatement ¶ 95; P-18.

33. Dr. Zakireh's conclusions were as follows:

Altogether, analysis of all available information including collateral records, self-reports, and objective measure of sexual interests in the current evaluation do not indicate a significant preexisting or a distinctly predisposed pattern of sexual fantasies, urges, or interests in children. There is presently no evidence of a paraphilic disorder such as pedophilic disorder or a pattern of contacting children or minors for sexual purposes. His sexual offense does not meet the criteria of a paraphilic disorder and does not indicate deviant sexual interests though his behavior was certainly a violation of social norms. There is no evidence that his behaviors were associated with pathological or coercive sexual behavior. Petition for Reinstatement ¶ 98; P-18 at p. 1.

34. Dr. Zakireh found that Petitioner's risk level is in the low range for engaging in any sexual offense or illegal sexual behavior in the future. P-18 at p. 2.

35. Dr. Zakireh stated that Petitioner's criminal acts were "associated with acute mood disorder, poor regulation of affect and impulses, corresponding alcohol abuse, concomitant instability and discord in his interpersonal environment and social functioning...at that juncture in his life." P-18 at 2.

36. From in or about June 2017 through in or about October 2017, Petitioner resumed counseling sessions with Dr. Orenstein. Thereafter, from in or about October 2017 through in or about April 2018, Petitioner engaged in one-on-one general psychological counseling at JJPI. Petition for Reinstatement ¶ 101; N.T. 58.

37. Petitioner has engaged in a number of civic and charitable endeavors, including fundraising for the Leukemia and Lymphoma Society, speaking publicly about his experiences including alcoholism, subsequent rehabilitation and recovery, being a guest speaker at a school to discuss the play and movie, *12 Angry Men*, and volunteering to be interviewed via telephone for Independent Study High School Senior Project where Petitioner spoke about his experience in the law, as a criminal defendant and inmate, and as a paralegal. Petition for Reinstatement ¶¶ 108, 110, 111, N.T. 59, 158, 159, 160, 283.

38. From November 2014 through June 2017, Petitioner was employed at companies performing customer service and related duties. Reinstatement Questionnaire, No. 6(b).

39. In May 2018, Petitioner commenced employment as a paralegal with Holt Law, a criminal defense and family law firm located in Harrisburg, Pennsylvania. Petitioner worked for Mr. Holt until April 2021. Petition for Reinstatement ¶ 104; Reinstatement Questionnaire No. 6(b); N.T. 60.

40. In February 2022, Petitioner commenced employment as a paralegal with Shreve

Law Group, a criminal law and DUI law firm located in Harrisburg, Pennsylvania, and is currently employed at the firm. Petition for Reinstatement ¶ 41; Reinstatement Questionnaire No. 6(b).

41. Petitioner notified the Board of his employment with Holt Law and the Shreve Law Group. PE 13, 14, 15, 16.

D. PETITIONER'S WITNESSES (in addition to Petitioner)

i. James K. Gumberg, Esquire

42. James K. Gumberg, Esquire is a licensed attorney who practices in California, mainly in labor and employment law. Petitioner and Mr. Gumberg were roommates in law school. N.T. 72.

43. Mr. Gumberg is aware of Petitioner's criminal actions, his imprisonment, and his disbarment. He credibly testified that, "If John is readmitted and I need a lawyer, I would be willing to hire him." N.T. 95.

44. Mr. Gumberg believes that Petitioner's experiences would make him a better lawyer, more understanding, and more attuned to his clients' interests if he were readmitted. N.T. 94.

45. Mr. Gumberg credibly testified that Petitioner's crime relating to the pornography charge was a "one-off incident" and affected by his substance use. He attributed Petitioner's criminal behavior related to violating the PFA as a consequence of his issues with drinking. N.T. 102, 103, 105.

46. Mr. Gumberg credibly testified that Petitioner's readmission, after 14 years of extensive rehabilitation, would not be detrimental to the bar, the administration of justice

or the public interest. N.T. 91-97.

ii. Lizhu Zhong

47. Lizhu Zhong was the Head Librarian at SCI Camp Hill from 1995 to 2019. She met Petitioner while he was incarcerated at SCI Camp Hill. Petitioner worked at the prison library while serving his sentence. N.T. 116-118.

48. Ms. Zhong credibly testified that Petitioner tutored inmates to help them obtain their GEDs. N.T. 120-122.

49. Ms. Zhong testified that Petitioner was very serious about working in the library, and was willing to do an extra job, help people, and talk to those in need. N.T. 126.

50. Ms. Zhong commended Petitioner's candor in discussing and taking responsibility for his misconduct and rehabilitation. N.T. 123-125.

51. Ms. Zhong credibly testified that the Petitioner's readmission, after 14 years of extensive rehabilitation, would not be detrimental to the bar, the administration of justice or the public interest. N.T. 138-141.

iii. Paul O'Hara

52. Paul O'Hara is an independent IT consultant and a longtime friend of Petitioner. Mr. O'Hara has known Petitioner for over 40 years. N.T. 144.

53. Mr. O'Hara is aware of Petitioner's criminal actions, his incarceration, and his disbarment. Mr. O'Hara vouched for Petitioner's rehabilitation. He credibly testified that none of Petitioner's crimes involved Petitioner being an attorney, but rather were borne out of a difficult divorce situation. Mr. O'Hara does not believe that Petitioner was intentionally looking for child pornography. Further, he mentioned that Petitioner had a

love for the law and loved practicing law. N.T. 146, 170, 172.

54. Mr. O'Hara credibly testified that if Petitioner was readmitted, his experiences would make him a better attorney and more understanding of his clients. Mr. O'Hara testified, "I think he's had an opportunity to see things from a different side and he's come out of this with a real passion." N.T. 164.

55. Mr. O'Hara credibly testified because of Petitioner's efforts, they were able to raise almost \$50,000 for the Leukemia and Lymphoma Society. Mr. O'Hara also mentioned that Petitioner helped his daughter by being a guest speaker for a play they were studying. Mr. O'Hara's daughter also asked Petitioner if he could help another student with a project, to which Petitioner obliged. N.T. 158.

56. Mr. O'Hara testified that Petitioner's readmission, after 14 years of extensive rehabilitation during disbarment, would not be detrimental to the bar, the administration of justice or the public interest. N.T. 163-166.

iv. Harry Orenstein, Ph.D.

57. Dr. Orenstein was Petitioner's treating psychologist. Petitioner engaged in extensive psychotherapy with Dr. Orenstein from December 2014 through January 2016, then from June 2017 through October 2017, approximately twice per month. Dr. Orenstein credibly testified Petitioner was not in treatment because it was mandated but rather that Petitioner enjoyed being in treatment, which made the treatment work better. N.T. 185, 189, 250.

58. Petitioner's therapy with Dr. Orenstein involved discussions of getting his life back in order, looking at the problems he created in his life, and understanding where he had

been and what he needed to do to move forward. Dr. Orenstein credibly testified that Petitioner was open and transparent in therapy, assumed responsibility for the underlying matters, did not assess blame, and was willing to deal with things. N.T. 183, 184, 186.

59. Dr. Orenstein reviewed the Forensic Psychosexual Assessment of Dr. Zakireh and agreed with the findings and conclusions. N.T. 196-197.

60. Dr. Orenstein prepared a Clinical Assessment of Petitioner in April 2023. In the report, he noted "[Petitioner] explored the antecedents to the behavior that caused him to be locked up, which brought about his drinking to excess and which were related to his use of poor judgment (overall). He was a mature and responsive client, used the time well, and was prepared to discuss psychological issues." at 1. Dr. Orenstein noted, "The treatment was consistently productive." He also stated, "We reached a point [in 2017] where he could be comfortably terminated from treatment." Id. at 2. During his testimony, Dr. Orenstein opined that "no psychiatric diagnosis was appropriate at this time." P-19 (A); N.T. 194-195.

61. Dr. Orenstein credibly testified that the factors that led to his determination that Petitioner could be terminated from treatment in 2017 were that he was working, making friendships, doing well with his family, and was a fully functioning adult with a positive outlook. N.T. 193. Dr. Orenstein saw no signs of serious anxiety or depression, stress or lack of reality in Petitioner's speech or thought process. N.T. 194-195.

62. Dr. Orenstein credibly testified that Petitioner's readmission, after years of extensive rehabilitation, would not be detrimental to the bar, the administration of justice or the public interest. N.T. 198-202.

v. William Shreve, Esquire

63. William Shreve, Esquire has been a licensed attorney in Pennsylvania since 1998. His practice is in Dauphin County, and his primary area of practice is criminal defense with some family law. He has employed Petitioner as a paralegal since February 2022. N.T. 219-220.

64. Mr. Shreve is aware of Petitioner's criminal actions, incarceration, and disbarment. In his testimony, Mr. Shreve credibly vouched for Petitioner's rehabilitation and fitness to be readmitted to the bar. N.T. 230-231.

65. Mr. Shreve credibly spoke of Petitioner's candor and transparency in discussing his misconduct and subsequent rehabilitation and his ability to take responsibility for his actions. Mr. Shreve testified that Petitioner's convictions were of great concern, but credibly stated, "What won me over was the candor [of the Petitioner]." Petitioner provided the JJPI psychosexual evaluation to Mr. Shreve and took full ownership and responsibility for his actions. N.T. 220, 237, 241-242.

66. Mr. Shreve credibly testified that he would not have been willing to take a chance with his law practice and would not have staked his reputation and his livelihood by employing Petitioner if Petitioner had not been so forthright with Mr. Shreve. N.T. 233.

67. Mr. Shreve praised Petitioner's knowledge of and skill in the law, his high level of professionalism in the office, his good character, adherence to ethics, and moral fitness to practice. N.T. 228, 230-231.

68. Mr. Shreve emphasized that Petitioner does not hold himself out as an attorney to any client, opposing counsel, or third party, and goes out of his way to ensure there is

no confusion that he is a paralegal. N.T. 229.

69. Mr. Shreve credibly testified that Petitioner's readmission, after years of extensive rehabilitation, would not be detrimental to the bar, the administration of justice or the public interest. N.T. 230-231.

70. Mr. Shreve testified that if Petitioner is reinstated, he plans to employ him at his office as a lawyer, because Petitioner would be a great asset to Mr. Shreve's firm. N.T. 231.

vi. John P. Halfpenny (Petitioner)

71. Petitioner appeared at the April 25, 2023 hearing, represented himself, and testified credibly on his own behalf.

72. At the reinstatement hearing, Petitioner candidly testified to the personal circumstances leading to the breakdown of his marriage; the child custody dispute with his former wife; his alcoholism and sobriety; his past struggles with mental health; the nature and circumstances of his crimes; his experiences in prison; his early release from probation; his continuing and ongoing efforts at personal growth; his experiences as a paralegal; and his plans and hopes for the future. N .T. 246-291.

73. Petitioner testified that alcoholism was the primary factor in his misconduct. He provided two expert opinions on this finding with the reports of Dr. Zakireh and Dr. Orenstein. N.T. 272-273.

74. Petitioner testified to his alcohol use and efforts to gain sobriety. Petitioner used alcohol on and off since law school but was drinking more heavily as his marriage began to deteriorate, and he attempted several times to get sober. In the early 2000s, Petitioner

attended Rehab After Work in Philadelphia for about two years, went to AA meetings, and tried psychotherapy. Petitioner's sobriety would last six months or so and he would relapse. Petitioner and his former wife separated in early 2007 and Petitioner went to two different inpatient rehabilitation facilities in Florida, each for 28 days. Petitioner relapsed in August 2008, approximately three weeks prior to the attempted burglary criminal incident. N.T. 267-276.

75. Petitioner started rehabilitation for alcohol abuse in September 2008, when he was in jail for the attempted burglary charges, and he has remained sober since September 15, 2008. Petitioner testified that his sobriety is his greatest achievement and he continues to attend AA meetings. N.T. 33, 283, 289, 290.

76. Petitioner accepted full responsibility for his criminal actions, which he described as indefensible and reprehensible, and expressed genuine remorse. N.T. 17, 19, 31, 37, 47, 245, 263.

77. Petitioner testified that he was deliberate in waiting until October 2022 (13 years after disbarment) to file for reinstatement, in order to be able to demonstrate that he has taken his disbarment seriously and to show true and actual rehabilitation. N.T. 249, 289.

78. If reinstated, Petitioner plans to practice law in Central Pennsylvania, and intends to work with other lawyers, including Attorney Shreve. Petition for Reinstatement, No. 14(b).

E. MISCELLANEOUS FINDINGS OF FACT

79. On December 12, 2022, ODC filed a Response to the Petition for Reinstatement in which it raised "potential areas of concern" with Petitioner's reinstatement petition and

reserved the right to review the testimony and evidence Petitioner presented at the hearing before taking a final position on reinstatement. Joint Stipulation at ¶ 45; ODC Exhibit 11.

80. On December 15, 2022, Petitioner filed a Response and provided information and documentation to address the concerns raised in ODC's December 12, 2022 letter. Joint Stipulation at ¶¶ 46; ODC Exhibit 12.

81. On February 13, 2023, Petitioner filed a Supplemental Response and provided additional information and documentation to address the concerns raised in ODC's December 12, 2022 letter. Joint Stipulation at ¶ 47; ODC Exhibit 13.

82. On or about January 17, 2023, Petitioner entered into a payment agreement with the IRS to make monthly payments on his then-outstanding balance of approximately \$6,500.00 owed in personal income taxes. Petitioner began making monthly payments pursuant to the agreement on or about February 7, 2023. Joint Stipulation at ¶ 49.

83. On or about February 9, 2023, Petitioner satisfied his obligation to the Pennsylvania Department of Revenue and paid off his outstanding balance of \$720.99 owed in personal income taxes. Petitioner has no outstanding obligations to the Pennsylvania Department of Revenue. Joint Stipulation at ¶ 50.

84. Petitioner has not sought reinstatement in any of the other jurisdictions where he was reciprocally disbarred. Joint Stipulation at ¶ 34.

85. Petitioner has not engaged in the practice of law while he has been disbarred. Joint Stipulation at ¶ 35.

86. Petitioner had no other history of discipline prior to his involvement in this

disciplinary matter. Joint Stipulation at ¶¶ 36.

87. Petitioner communicated with the Pennsylvania Lawyers Fund for Client Security and by letter dated May 5, 2023, the Fund stated that it had no record of receiving any claims involving Petitioner. Reinstatement Questionnaire No. 12(d).

88. Petitioner fulfilled the required Continuing Legal Education credits for reinstatement and reviewed various legal publications during his disbarment period, including *The Legal Intelligencer*, *The Pennsylvania Lawyer*, and PBI practice guides. Reinstatement Questionnaire No. 13.

89. Petitioner introduced 19 character reference letters into evidence submitted by a broad cross-section of his community, including three attorneys, two former Department of Corrections officials, five small business owners, two teachers, the proprietor of a childcare center, a deacon in the Catholic Church, a U.S. Navy veteran, a chemical engineer, a steam fitter, a truck driver, and a health care professional. P-17. Each reference was aware of Petitioner's criminal conduct, incarceration, and disbarment and all vouched for Petitioner's rehabilitation and fitness to be readmitted to the bar.

90. After reviewing the record, ODC does not oppose Petitioner's reinstatement.

III. CONCLUSIONS OF LAW

1. The misconduct for which Petitioner was disbarred is not so egregious as to preclude consideration of his Petition for Reinstatement. *Office of Disciplinary Counsel v. John Keller*, 506 A.2d 872 (Pa. 1986).

2. Petitioner met his burden of proof by clear and convincing evidence that a

sufficient period of time has passed since the misconduct, during which he engaged in rehabilitation. *In the Matter of Jerome J. Verlin*, 731 A.2d 600 (Pa. 1999).

3. Petitioner met his burden of proof by clear and convincing evidence that he has the moral qualifications, competency and learning in the law required for admission to practice law in the Commonwealth of Pennsylvania. Rule 218 (c)(3), Pa.R.D.E.

IV. DISCUSSION

Petitioner seeks readmission to the practice of law in Pennsylvania following his disbarment on consent by Order of the Supreme Court of Pennsylvania on December 10, 2014, retroactive to October 7, 2009, the date of Petitioner's temporary suspension from the practice of law. Petitioner's disbarment arose from his criminal convictions in two separate cases: in the first case, for attempted burglary, criminal trespass, harassment, stalking, contempt for violating a PFA order, and possessing an instrument of crime; in the second case, for possession of child pornography and unlawful use of a communication facility. For the reasons that follow, we conclude that Petitioner met his reinstatement burden and recommend to the Court that the Petition for Reinstatement be granted.

When a disbarred attorney seeks reinstatement, the Board and the Court must first examine whether the magnitude of the breach of trust committed by the attorney is so egregious that it precludes further reconsideration of the petition for reinstatement. *Office of Disciplinary Counsel v. John Keller*, 506 A.2d 872 (Pa. 1986).

There is no doubt that the misconduct that led to Petitioner's disbarment 14 years ago is extremely serious. The factual underpinnings reveal that in the first criminal incident, Petitioner committed multiple crimes related to actions against his former wife, Ms. Halfpenny, from whom he was divorced in July 2008. Prior to the divorce, Ms. Halfpenny obtained a PFA order against Petitioner. Petitioner violated the PFA in July 2008 by making 70 to 90 unauthorized telephone calls to Ms. Halfpenny over a five-day period. He further violated the PFA by having unauthorized contact with Ms. Halfpenny in August 2008. In September 2008, Petitioner called his former wife's mother and told her that something would happen to all of them. Petitioner then appeared in Ms. Halfpenny's backyard with a bag, which he dropped as he fled, and which was later discovered to contain a roll of duct tape, an extension cord, a book of matches, a pair of leather gloves, a scarf, and a 13-inch kitchen knife. Petitioner's blood was found in several areas of Ms. Halfpenny's yard, on the outside of the house, and in the surrounding patio area. While incarcerated for these criminal acts, Petitioner was arrested and charged with possession of child pornography and unlawful use of a communication facility. This conduct was discovered in January 2007, when Ms. Halfpenny found photographs depicting images of child pornography in a guitar case belonging to Petitioner. Ms. Halfpenny did not report her findings to the police until some two years later, in March 2009. Petitioner admitted to viewing child pornography and downloading the images. The record demonstrates that the nature of Petitioner's criminal activity never involved his clients or the practice of law.

Upon consideration of Petitioner's misconduct, we conclude that his acts are not so egregious as to prevent the possibility of reinstatement. There are numerous

examples where the *Keller* threshold question has been met in cases where a petitioner was disbarred based on serious criminal misconduct. See, *In the Matter of Sandra Couch Collins*, Nos. 141 DB 1996 & 37 DB 1998 (D. Bd. Rpt. 3/14/2022) (S. Ct. Order 5/4/2022) (attorney disbarred on consent following convictions for burglary, criminal trespass, interference with custody of children, concealment of whereabouts of a child, harassment, stalking, escape, and disorderly conduct related to kidnapping daughter during child custody dispute; conduct not so egregious to bar reinstatement); *In the Matter of Cory Adam Leshner*, No. 159 DB 2013 (D. Bd. Rpt. 11/10/2020) (S. Ct. Order 12/16/2020) (attorney disbarred on consent following conviction for conspiracy to commit wire fraud; was a co-conspirator in the Scarfo organized crime family before, during, and after law school; conduct not so egregious to bar reinstatement); *In the Matter of Philip G. Gentile*, No. 54 DB 2007 (D. Bd. Order 2/20/2018) (S. Ct. Order 3/16/2018) (attorney disbarred following convictions for grand larceny, cocaine possession, and passing bad checks; conduct not so egregious to preclude reinstatement); *In the Matter of Grahame P. Richards, Jr.*, No. 43 DB 1996 (D. Bd. Rpt. 8/23/2016) (9/21/2016) (attorney disbarred on consent for convictions for forgery, theft by unlawful taking, and theft by deception arising out of his misappropriation of more than one million dollars in client funds; conduct not so egregious to preclude reinstatement).

Surveying prior cases, we find Petitioner's misconduct related to the attempted burglary, criminal trespass, stalking, and harassment similar to the criminal offenses in the *Collins* matter, both in the nature of the offenses and the fact that they were committed outside the practice of law. As noted above, the Board concluded that

Collins' crimes, through grave in nature, did not prevent her reinstatement. As to Petitioner's possession of child pornography, we find no prior reinstatement matter with similar facts. Undoubtedly, child pornography is not a victimless crime and is a scourge on society. Here, the facts surrounding this crime demonstrate that Petitioner in his personal capacity and not related to his law practice, was surfing the internet for pornography and followed a link that led to a child pornography site, which he viewed for about 30 to 60 minutes and downloaded approximately 60 images. Petitioner's former wife discovered the downloaded images in a guitar case in 2007 and reported Petitioner to the police two years later. The record demonstrates that Petitioner possessed the child pornographic images, a third degree felony, but did not cause the images to exist or distribute the images. While Petitioner's possession of child pornography is egregious, we conclude that the misconduct is not so offensive as to forever bar Petitioner's reinstatement under *Keller*.

The Board's inquiry does not end with the determination of the *Keller* threshold issue. As established by case law, a reinstatement proceeding is a "searching inquiry into a lawyer's present professional and moral fitness to resume the practice of law. The object of concern is not solely the transgressions which gave rise to the lawyer's suspension or disbarment, but rather, the nature and extent of the rehabilitative efforts he has made since the time the sanction was imposed and the degree of success achieved in the rehabilitative process." *Philadelphia News, Inc. v. Disciplinary Board of the Supreme Court of Pennsylvania*, 363 A.2d 779, 780-781 (Pa. 1976). We therefore consider whether Petitioner has established by clear and convincing evidence that he has

the moral qualifications, competency and learning in the law required for admission to practice law in Pennsylvania and that his readmission would not have a detrimental impact on the integrity and standing of the bar, the administration of justice nor be subversive of the public interest, pursuant to Pa.R.D.E. 218(c)(3). To meet this burden, Petitioner must demonstrate that a sufficient amount of time has passed since his misconduct, during which he engaged in rehabilitative efforts such that the detrimental impact of his serious misconduct on the public trust has been dissipated. *Verlin*, 731 A.2d at 602.

The question of what constitutes rehabilitation sufficient to meet a petitioner's burden of proof depends on the facts and circumstances of each matter, requiring the Board to view the record as a whole and closely examine the petitioner's period of removal from the practice of law.

Petitioner has been disbarred since October 7, 2009, a period of 14 years. The record reflects that Petitioner began taking responsibility for his actions prior to the Court's disbarment order by entering guilty pleas, reporting his convictions to ODC, and voluntarily resigning from the bar and accepting disbarment. As a result of his criminal convictions, Petitioner served a continuous period of confinement from September 14, 2008 until October 15, 2014, during which he engaged in extensive rehabilitation. During his incarceration, Petitioner participated in and completed numerous rehabilitation programs, including the OPTIONS substance abuse disorder treatment program and other alcohol and drug programs, AA meetings, victim awareness program, low-intensity sexual offender program, character development program, and good citizenship program.

Petitioner worked full-time in the prison library, formed a book club, gave guitar lessons, and tutored inmates to attain their GEDs.

Petitioner's rehabilitation continued when he was released from prison on October 15, 2014. Shortly thereafter, Petitioner commenced extensive psychological counseling with Dr. Orenstein, which counseling was voluntary and lasted until 2017. This counseling thoroughly explored the problems that Petitioner had created in his life and their causes, his alcoholism and interpersonal issues, and what Petitioner needed to do to move forward after his experiences. Dr. Orenstein described Petitioner as open and transparent, assuming responsibility and not blaming others. The counseling terminated in 2017 based on Dr. Orenstein's determination that Petitioner was a fully functioning adult with a positive outlook who exhibited no signs of serious anxiety, depression or stress.

In 2015, at the direction of the Philadelphia Family Court, Petitioner sought and obtained a psychosexual evaluation at JJPI in Philadelphia. The assessment was performed over two sessions by Dr. Zakireh, the Director of Forensic programs at JJPI. Dr. Zakireh prepared a written "Summary of Forensic Psychosexual Evaluation" dated August 4, 2015. Dr. Zakireh concluded that there was no indication of a significant preexisting or distinctly predisposed pattern of sexual fantasies, urges, or interest in children, and no evidence of a paraphilic disorder such as pedophilic disorder or a pattern of contacting children and minors for sexual purposes. Dr. Zakireh concluded there was no evidence that Petitioner's behaviors were associated with pathological or coercive sexual behavior, and he rated Petitioner's risk of recidivism as in the low range for

engaging in any sexual offense or illegal sexual behavior in the future. From about October 2017 through April 2018, Petitioner engaged in one-on-one general psychological counseling at JJPI.

In 2017, three years after his release from incarceration, Petitioner was granted early release from supervision and his probation terminated in the possession of child pornography case. In 2019, Petitioner was granted early release and his probation terminated in the attempted burglary matter, which order released Petitioner from probation 12 years early.

Post-incarceration, Petitioner maintained continuous employment in a variety of positions. From November 2014 through June 2017, Petitioner worked in customer service jobs, then transitioned to paralegal work in May 2018. Petitioner's first paralegal position was for Holt Law in Harrisburg, Pennsylvania, where he was supervised by Aaron N. Holt, Esquire. In May 2022, Petitioner commenced paralegal employment with Shreve Law Group in Harrisburg, where he currently works and is supervised by William Shreve, Esquire. As relates to both paralegal positions, Petitioner and the supervising attorneys filed the required notices of employment with the Board. There is no evidence of record that Petitioner has held himself out as eligible to practice or has engaged in the unauthorized practice of law. He ensures that those he interacts with know he is a paralegal. Mr. Shreve testified at the reinstatement hearing that he was impressed by Petitioner's candor and acceptance of responsibility, which ultimately convinced Mr. Shreve to employ Petitioner. Mr. Shreve praised Petitioner's high level of legal skill in drafting briefs and motions. Petitioner's gainful employment as a paralegal

since 2018 has permitted him the opportunity to use his legal training within the requirements of Pa.R.D.E. 217 and gives assurance to the Board that Petitioner is competent and learned in the law. In addition to his paralegal work, Petitioner bolstered his efforts to remain competent and learned in the law by completing Continuing Legal Education requirements and reviewing numerous legal publications. Petitioner shared his plans for reentering the legal profession if reinstated and intends to practice law in Central Pennsylvania, working with other lawyers, including Attorney Shreve.

Petitioner, having achieved sobriety while incarcerated, has continuously maintained his sobriety upon release by regularly attending AA meetings and speaking publicly about his alcoholism and recovery. Petitioner has been sober for 15 years and when reflecting on his years of substance abuse, considers sobriety his greatest achievement. Petitioner's post-incarceration rehabilitation includes engagement in charitable and civic endeavors. These include fundraising for the Leukemia and Lymphoma Society, being a guest speaker at a school, and volunteering to be interviewed for a high school project, where Petitioner spoke about his experiences as a lawyer, a criminal defendant, an inmate, and a paralegal.

Throughout his candid and forthright testimony, Petitioner expressed his remorse and shame for his misconduct, and held himself accountable for his criminal actions, testifying that "I tried to take responsibility from day one." N.T. 245. He described his conduct as "indefensible" and "reprehensible." N.T. 19, 31, 47, 263. While providing context for his actions related to his alcohol use and the child custody dispute, Petitioner did not attempt to justify or excuse his serious misconduct.

Petitioner has not had contact with his former wife in 15 years, but attempted to express remorse for his conduct during the family court hearings. N.T. 292. He acknowledged that while he still writes letters to his children, who are young adults, he has not spoken with them in two years. N.T. 293. Petitioner gave credit to his former wife in raising their children while he was incarcerated, testifying that “this [as] part of my rehabilitation [–] realizing that [my] kids are still out there and they’re doing really well ... because their mom had been able to step up and be both parents when I couldn’t be there, and to his day, I’m grateful to [Ms. Halfpenny] for that.” N.T. 281.

A strong factor in support of reinstatement is the credible testimony of Petitioner’s witnesses, whose testimony was uncontradicted. These witnesses comprised a diverse group from different aspects of Petitioner’s life. In addition to Dr. Orenstein, who testified to Petitioner’s psychological therapy and positive prognosis, the witnesses included Attorney Gumberg, a friend who has known Petitioner since they were law school roommates in the late 1980s; Mr. O’Hara, a friend who has known Petitioner for more than 40 years; Attorney Shreve, who employs and supervises Petitioner in his capacity as a paralegal; and Ms. Zhong, who was head librarian at the SCI Camp Hill for more than two decades and who met Petitioner while he was an inmate working at the library. Each witness was aware of Petitioner’s criminal conduct, imprisonment, and disbarment and testified to Petitioner’s genuine and sincere candor, remorse, acceptance of responsibility, trustworthiness and integrity. Each witness provided positive insights into Petitioner’s rehabilitated character and credibly testified that knowing Petitioner’s criminal conduct and knowing who he is as a person, they support his readmission after

14 years of disbarment, and believe it would not be detrimental to the bar, the administration of justice or the public interest. As well, 19 character references representing a broad cross-section of his community bolstered Petitioner's qualifications for reinstatement, as each attested that Petitioner's readmission would not adversely affect the bar, the administration justice or the public interest.

While Petitioner's breach of trust was great, the record demonstrates that he has devoted his lengthy period of disbarment to rehabilitative activities that have dissipated the impact of his original misconduct on the public trust. Petitioner approached the reinstatement process, starting with the filing of his Petition and Questionnaire through his direct testimony, cross-examination and answers responsive to questions from the Committee, with the full candor and transparency necessary for the Board and the Court to assess his rehabilitative efforts. Petitioner clearly acknowledged his serious criminal actions and expressed sincere remorse and regret. Petitioner spent many years both during and subsequent to his incarceration engaging in treatment and programs to understand his misconduct, address its underlying causes, and reinforce his progress. The evidence presented, particularly Dr. Orenstein's testimony and Dr. Zakireh's evaluation, demonstrates that Petitioner's rehabilitation efforts were successful and he does not represent a danger to the public for recidivist criminal conduct. Petitioner's commitment to rehabilitation was observed by his witnesses, who each shared their view that Petitioner is fit and ready to resume the practice of law. We conclude that after 14 years of disbarment, Petitioner's reinstatement would not cause harm to the public or adversely affect the public's perception of the legal profession. See, *In the Matter of Jay*

Ira Bomze, No. 149 DB 2012 (D. Bd. Rpt. 11/21/2017) (S. Ct. Order 12/26/2017) (reinstatement granted from 15 year period of disbarment that resulted from healthcare fraud conviction; demonstrated rehabilitation through, *inter alia*, steady and productive work history, contribution to charitable endeavors, genuine remorse, evidence of good character); *In the Matter of Robert S. Teti*, No. 30 DB 1999 (D. Bd. Rpt. 12/13/2012) (S. Ct. Order 2/27/2013) (reinstatement granted from 13 year disbarment period that resulted from conviction for failure to make required disposition of funds; demonstrated rehabilitation through, *inter alia*, steady employment, sincere expressions of remorse and regret, good reputation in the community).

Upon this record, Petitioner is fit to practice law. Petitioner has met his reinstatement burden by clear and convincing evidence that he is morally qualified, competent and learned in the law, and that his reinstatement will not be detrimental to the integrity and standing of the bar or the administration of justice nor subversive of the public interest. For all of the above reasons, we recommend Petitioner's reinstatement.

V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania recommends that the Petitioner, John P. Halfpenny, be reinstated to the practice of law.

The Board further recommends that, pursuant to Rule 218(f), Pa.R.D.E., Petitioner be directed to pay the necessary expenses incurred in the investigation and processing of the Petition for Reinstatement.

Respectfully submitted,

THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

By: /s/ Robert J. Mongeluzzi
Robert J. Mongeluzzi, Member

Date: January 25, 2024

Vice-Chair Rafferty and Members Repard, Senoff, and Vance dissent in favor of denying reinstatement.