

Supreme Court of Florida

No. SC10-2439

FLORIDA BOARD OF BAR EXAMINERS RE: WILLIAM CASTRO

[February 9, 2012]

PER CURIAM.

This case is before the Court on the petition of William Castro seeking review of the Florida Board of Bar Examiners' Findings of Fact, Conclusions of Law, and Recommendation on his application for admission to The Florida Bar. We have jurisdiction. See art. V, § 15, Fla. Const. For the reasons expressed below, we approve the Board's action regarding Castro's application and permanently deny him admission to the Bar.

BACKGROUND

William Castro was admitted to The Florida Bar in 1981 and practiced law as a criminal defense attorney. He was later charged and convicted in federal court on several felony charges, including bribery. As a result of his criminal conviction, in April 1994 the Court entered an order suspending Castro from the practice of law in Florida, and ultimately disbarred him in November 1998,

effective, nunc pro tunc, May 12, 1994, and prohibited him from seeking readmission for a period of ten years. See Fla. Bar v. Castro, 728 So. 2d 205 (Fla. 1998).

In December 2007, Castro executed an application for readmission to the Bar. He has successfully completed all portions of the Florida Bar Examination. However, during its background investigation, the Board identified certain information that reflected adversely on Castro's character and fitness. Following an investigative hearing, the Board served Castro with three Specifications. Castro filed an answer to these Specifications. A public formal hearing was held in July 2010.

Specification 1 concerns Castro's criminal charges and conviction. It alleges that in 1988, Castro was approached by Judge Roy Gelber, who had the authority to appoint him as a court-appointed defense attorney for defendants appearing in Judge Gelber's courtroom. Judge Gelber offered to give Castro numerous court appointments as a "Special Assistant Public Defender" in exchange for a percentage of the money Castro earned from the appointments. Castro agreed to participate in this arrangement. He was later charged in federal court with one count of conspiracy to commit racketeering, twenty-seven counts of mail fraud, and one count of bribery. Castro was convicted of the charges (except he was acquitted on one count of mail fraud). On March 17, 1994, he was sentenced to

serve thirty-seven months in prison, followed by three years of supervised release. Castro has served his sentence, and his civil rights were restored in 2006. Castro admitted the allegations contained in Specification 1. Accordingly, the Board found these allegations were proven and were individually disqualifying for admission to The Florida Bar.

Specification 2 concerns Castro's suspension and disbarment. On April 12, 1994, this Court initially entered an order suspending Castro from the practice of law. Later, the Bar filed a formal Complaint against him alleging the following violations of the Rules Regulating the Florida Bar (Bar Rules): 4-3.5(a) (a lawyer shall not seek to influence a judge, juror, prospective juror, or other decision maker except as permitted by law or the rules of court); 4-8.4(b) (a lawyer shall not commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer); 4-8.4(c) (a lawyer shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation); 4-8.4(d) (a lawyer shall not engage in conduct in connection with the practice of law that is prejudicial to the administration of justice); and 4-8.4(f) (a lawyer shall not knowingly assist a judge or judicial officer in conduct that is in violation of applicable rules of judicial conduct or other law). In August 1998, Castro submitted a Conditional Guilty Plea for Consent Judgment. Following the consent judgment, on November 12, 1998, the Court entered an order disbaring Castro

from the practice of law with a ban on seeking readmission for ten years effective, nunc pro tunc, May 12, 1994. Castro also admitted the allegations in Specification 2. The Board found these allegations were proven and were individually disqualifying for admission to the Bar.

In Specification 3, the Board alleged that Castro's Conditional Guilty Plea for Consent Judgment included certain false or misleading statements. However, the Board found that these allegations were not proven.

In his answer to the Specifications, Castro pled the affirmative defense of rehabilitation. He presented substantial evidence in this regard, including twenty-three witnesses who testified on his behalf at the public formal hearing. Castro also testified at the hearing. He estimated that he has dedicated about 13,300 hours to community service over the last eighteen years. He has participated in a variety of community service activities, including volunteer work with his church; teaching confirmation classes; serving as a foster parent and as a member of a foster care review panel; working as a Guardian ad Litem in the Criminal Law Project; and organizing a Continuing Legal Education series for the Bar called, "My Faith in Practice."

Based on the evidence and testimony presented at the formal hearing, the Board found that the allegations in Specification 1 and 2 were proven, and were individually disqualifying from readmission to the Bar. The Board also found that

Castro's presentation failed to mitigate the seriousness of his misconduct. In particular, the Board noted the "egregious nature" of Castro's actions, stating, "The applicant's criminal actions covered an extended period of time and involved multiple kickbacks to a judge." Accordingly, the Board concluded "that no amount of rehabilitation will ever suffice to allow the applicant's readmission to the Florida legal profession that he dishonored when he participated in the corruption of the judicial system that he had sworn as an officer of the court to respect and uphold." The Board recommends that Castro be permanently precluded from seeking readmission to The Florida Bar. Castro has petitioned this Court for review.

ANALYSIS

In a Bar admission proceeding, the burden is upon the applicant to demonstrate his or her good moral character. See Fla. Bd. of Bar Exam'rs re H.H.S., 373 So. 2d 890, 891 (Fla. 1979). We have previously held that disbarment alone is disqualifying for admission to the Bar unless an applicant can show clear and convincing evidence of rehabilitation. See Fla. Bd. of Bar Exam'rs re Papy, 901 So. 2d 870, 872 (Fla. 2005). In determining whether an applicant has sufficiently demonstrated rehabilitation, the "nature and seriousness of the offense are to be weighed against the evidence of rehabilitation." Fla. Bd. of Bar Exam'rs re M.L.B., 766 So. 2d 994, 996 (Fla. 2000) (quoting Fla. Bd. of Bar Exam'rs re

D.M.J., 586 So. 2d 1049, 1050 (Fla. 1991)). Thus, the “more serious the misconduct, the greater the showing of rehabilitation that will be required.” Fla. Bd. of Bar Exam’rs re J.J.T., 761 So. 2d 1094, 1096 (Fla. 2000).

Here, the Board determined that no amount of rehabilitation would ever be sufficient to warrant readmitting Castro to the Bar. We agree. As a member of the Bar in this state, Castro had an obligation to respect and uphold the judicial system and the legal profession. He violated this obligation when he participated in a scheme involving bribery and kickbacks to a sitting judge. This type of misconduct, involving corruption within the legal system, is particularly egregious. It is clear that since his criminal conviction and disbarment, Castro has engaged in thousands of hours of community service, benefiting both his church and the legal community as a whole, in an effort to show his rehabilitation. While his commitment to community service is admirable, we agree with the Board’s conclusion that no demonstration of rehabilitation would ever suffice to allow Castro’s readmission to the legal profession. Cf. Fla. Bd. of Bar Exam’rs re W.F.H., 933 So. 2d 482 (Fla. 2006) (“[T]he total circumstances and underlying facts of the instant case, which involve misconduct by a sworn law enforcement officer, are so egregious and extreme, and impact so adversely on the character and fitness of W.F.H., that the recommendation of the Florida Board of Bar Examiners must be approved. We further conclude that under the totality of the

circumstances, the grievous nature of the misconduct mandates that W.F.H. not be admitted to the Bar now or at any time in the future.”)

CONCLUSION

Accordingly, for the reasons discussed above, we approve the Board’s Findings of Fact, Conclusions of Law, and Recommendation, and permanently deny William Castro admission to The Florida Bar.

It is so ordered.

CANADY, C.J., and PARIENTE, LEWIS, QUINCE, POLSTON, LABARGA, and PERRY, JJ., concur.

PARIENTE, J., specially concurs with an opinion.

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION, AND IF FILED, DETERMINED.

PARIENTE, J., specially concurring.

I have struggled with this case. On the one hand, the conduct giving rise to this petition clearly undermines the public’s trust in the judicial system. On the other hand, as former Justice Raoul Cantero testified, William Castro’s case is “one where [he has] seen more rehabilitation over a greater period of time than any other case.” Indeed, it was not just Raoul Cantero who testified on Castro’s behalf. Castro submitted letters from 190 individuals and presented many witnesses who testified in favor of his readmission to the Florida Bar, all setting forth specific examples of how he has demonstrated extraordinary conduct.

The witnesses who testified at Castro’s hearing included many leaders in the legal and judicial community, including: Arturo Alvarez; Francisco Angones; David Rothman; Circuit Judge Beatrice Butchko; Circuit Judge Stanford Blake; Circuit Judge Diane Ward; and now Circuit Judge Victoria Brennan. Each described Castro as a changed person and recommended his readmission without hesitancy. Judge Blake, who has known Castro since he was a young attorney, testified that he was “absolutely convinced Willie is a very good person that made a very bad mistake.”

The evidence established that Castro logged over 13,000 hours of community service during the past eighteen years—equivalent to an impressive 700 hours of service per year. He has volunteered for the Guardian ad Litem (GAL) program, where he has been described as a “wonderful asset.” The Senior Staff Attorney of the criminal court’s GAL program recounted several different cases on which Castro served. She believed that Castro’s efforts in one GAL case saved a child’s life and further described him as a “relentless advocate” and “meticulous.”

Castro is also a licensed foster-care parent, and he and his wife later adopted each of the three children they had fostered. The judge who approved the adoptions described how she “grew to admire and respect Willie” and had “no doubt that he would be a very positive member of the Bar.” Castro has led CLE

seminars in which he has taken “accountability for what he has done.” One witness who previously worked with Castro in organizing a seminar involving ethics and the law stated that during the time she has known him, Castro made her “want to be a better lawyer.” Another witness testified as to his service to the community, and especially to children, describing him as a “person that is just doing everything that he can to be able to give to people, to give of himself, of his time, of his talent, and to really make a difference in people’s lives.” Further, Castro has organized programs for migrant children, and one witness testified that these migrant children “wouldn’t have anything or much if it wasn’t for the efforts that Willie Castro had done.”

By all accounts, Castro has lived an exemplary life since his criminal charges, felony convictions, and prison sentence. Based on what I perceive to be overwhelming evidence of his rehabilitation, I would state that Castro has demonstrated all seven elements of rehabilitation required by Rule 3-13 of the Bar Admission Rules for admission when the applicant has previously engaged in disqualifying conduct. Given his rehabilitation, the question I have struggled with is whether the conduct that led to Castro’s ten-year disbarment qualifies as the type of conduct for which no amount of rehabilitation will ever suffice to earn him readmission to the Bar.

In essence, the Court's pronouncement today is a decision to change Castro's sanction of a ten-year disbarment imposed in 1994 to one of a permanent disbarment.¹ After careful consideration of the circumstances involved here, and despite the evidence of Castro's rehabilitation, I have ultimately come down on the side of agreeing with the Board and the majority that the crimes in this case—egregious acts of corruption, which stem from the bribery of a judge and the receipt of multiple kickbacks from that judge over an extensive period of time—so dishonored our judicial system that “no demonstration of rehabilitation would ever suffice to allow Castro's readmission to the legal profession.” Majority op. at 6. In reaching this decision, I have considered the other side of this equation—that it was the judge who approached Castro and that there is no evidence Castro handled the cases to which he was appointed in any way other than in a professional manner. Nevertheless, I am unable to cast aside my concern that the essential illegality at issue here goes to the very core of our public's trust and confidence in the judicial system.

Although this judgment of permanent disbarment may appear to be harsh, we must always remember that the practice of law is not a right but a privilege, and

1. I do not believe a sanction of permanent disbarment is necessarily warranted in all situations where applicants commit felonies prior to admission. In my view, the imposition of the sanction of permanent disbarment can vary depending on the type of felony and the circumstances under which it was committed.

it was Castro's own illegal actions that caused his downfall. I would hope that Castro will still be motivated to continue his involvement in the wonderful community activities that have been described by his scores of supporters and that he will continue to teach others the lessons that he has learned. While these lessons may be too late in his case, Castro's efforts may encourage, inspire, and motivate others to be better lawyers and human beings, all of whom may look at each day as an opportunity to give back to our community in a meaningful way.

Original Proceeding – The Florida Board of Bar Examiners

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