

SUPREME COURT OF LOUISIANA

NO. 2014-BA-2452

DEC 08 2015

IN RE: COMMITTEE ON BAR ADMISSIONS CFN-52

BAR ADMISSIONS PROCEEDING

PER CURIAM

MRC
JW
PO
JK
W
SJC
Petitioner successfully passed the Louisiana Bar Examination. However, the Committee on Bar Admissions ("Committee") advised petitioner that it was unable to certify him for admission to the bar on character and fitness grounds relating to his failure to disclose three arrests on his law school application.

Petitioner then applied to this court for admission to the practice of law. We remanded the matter to the Committee on Bar Admissions Panel on Character and Fitness to conduct an investigation and appointed a commissioner to take character and fitness evidence. Following the proceedings, the commissioner filed his report with this court, recommending petitioner be admitted to the practice of law. The Committee objected to that recommendation, and oral argument was conducted before this court pursuant to Supreme Court Rule XVII, § 9(D)(11).

After reviewing the evidence and considering the law, we conclude petitioner is eligible to be conditionally admitted to the practice of law in Louisiana, subject to a probationary period of one year. Should petitioner commit any misconduct during the period of probation, his conditional right to practice may be terminated or he may be subjected to other discipline pursuant to the Rules for Lawyer Disciplinary Enforcement.

CONDITIONAL ADMISSION GRANTED.

Winters, J. additionally concurs.

SUPREME COURT OF LOUISIANA

DEC 08 2015

NO. 14-BA-2452

IN RE: COMMITTEE ON BAR ADMISSIONS CFN-52

ON APPLICATION FOR ADMISSION TO THE BAR

JW **WEIMER, J., concurring.**

I subscribe to the majority opinion. I write separately in the sincere hope that others applying for law school and to sit for the bar avoid the same issues presented by this matter, which involves candor and truthfulness in the law school and bar application process.

Annually, it seems this court is confronted with this issue: an applicant is less than candid on an application, but the indiscretions omitted from the application would probably not adversely impact admission. This occurs despite a host of individuals making a significant, substantial, and concerted effort to advise bar applicants of the importance of candor. For example, each year, members of this and other courts as well as practicing attorneys participate in a nationally recognized and award-winning professionalism program sponsored by the Professionalism and Quality of Life Committee of the Louisiana State Bar Association on the first day of law school to extol the virtues of professionalism, which includes the importance of candor. Entering freshman law students are advised of how important it is to be absolutely candid on their bar admission applications. Similarly, and despite efforts by law schools to emphasize candor in the law school admission process, candor issues in that process can come to light during the later bar admission process.

Each year, someone is either denied admission or admission is postponed due to candor issues. Even if an applicant is ultimately admitted, as much as one year of that applicant's life is cast into limbo while this court must evaluate whether the

applicant is worthy of admission to the bar of this state. Significant time and effort are expended in evaluating the applicant's background. Often, a hearing officer is appointed to take testimony. The applicant bears the burden of proof to establish fitness, and individuals who know the applicant are inconvenienced and placed in the awkward position of being burdened with providing testimony and potentially being subjected to cross examination on difficult-to-discuss topics.

Ultimately, this court is put in the unenviable and difficult position of making the decision of whether to grant admission. Questions about an applicant's candor present challenging issues for this court to resolve among the panoply of issues presented in bar admission cases.

Indeed, courts have long grappled with the vexing issue of whether an applicant's lack of candor can ever be rehabilitated. See, e.g., In re Matthews, 462 A.2d 165, 175-176 (N.J. 1983). In In re Matthews, the court considered the character and fitness of an applicant who had been involved in a fraudulent investment scheme during law school and failed to file tax returns for several years. *Id.* at 170. The court denied admission. *Id.* at 177. The court did not foreclose the possibility that the applicant might later be able to meet his burden to "show through such evidence that when placed in a position of responsibility, he can act honestly and truthfully and with trustworthiness and reliability in his dealing with others." *Id.* However, emphasizing that "truthfulness and candor" are paramount considerations in assessing character and fitness (*id.* at 173), the court was less than sanguine about the possibility of the applicant demonstrating rehabilitation from his earlier misconduct. The court remarked: "it must be recognized that in the case of extremely damning past misconduct, a showing of rehabilitation may be virtually impossible to make." *Id.* at 176.

Such are the difficult realities presented when an applicant demonstrates a lack of candor. Practical advice to law school applicants and bar applicants is this: only you can place yourself in a situation which calls into question your ability to be candid and truthful; do not place yourself in that situation. Demonstrating that something in your past you do not relish disclosing to a law school or to the Committee on Bar Admissions is no longer indicative of your character and that you do possess the requisite character and fitness to practice law may be possible. However, if you are not candid in your applications, then not only must you overcome whatever you did not want to disclose in the first place, but you must also overcome the suspicion that your lack of candor casts upon anything you might say in support of your character. As Albert Einstein observed: “Whoever is careless with the truth in small matters cannot be trusted in important affairs.”¹ Youthful indiscretion and human frailty are more easily explained than a lack of candor.

That is the practical aspect of this advice. Its philosophical underpinnings I do not claim as original, but are built on the eloquent observations of others. See, e.g., In re Mikus, 2006-NMSC-12, p. 9, 131 P.3d 653, 655 (N.M. 2006), *quoting In re Scavone*, 524 A.2d 813, 820 (N.J. 1987) (“Candor and honesty are a lawyer’s stock and trade. Truth is not a matter of convenience. Sometimes lawyers may find it inconvenient, embarrassing, or even painful to tell the truth.”); W. William Hodes, *Seeking the Truth Versus Telling the Truth at the Boundaries of the Law: Misdirection, Lying, and “Lying with an Explanation”*, 44 S. Tex. L. Rev. 53, 64 (noting a national movement “to rejuvenate the old adage that a lawyer’s word is his bond and the old notion that honesty and integrity are her stock-in-trade—and in our materials we have more cases than some might imagine exist to prove that courts and

¹ THE ULTIMATE QUOTABLE EINSTEIN, 187-188 (Alice Calaprice, ed., 2010).

disciplinary agencies and bar admission authorities are taking more interest in this issue.”). As Thomas Jefferson stated: “[H]onesty is the first chapter in the book of wisdom.”²

Thus, I respectfully concur.

² Letter from Thomas Jefferson to Nathaniel Macon, Esq. (Jan. 12, 1819), *in* 7 THE WRITINGS OF THOMAS JEFFERSON: BEING HIS AUTOBIOGRAPHY, CORRESPONDENCE, REPORTS, MESSAGES, ADDRESSES, AND OTHER WRITINGS, OFFICIAL AND PRIVATE, 112 (H.A. Washington, ed., 1854).