2010 CASE LAW REVIEW

THE 2010 NATIONAL CONFERENCE FOR LAWYER ASSISTANCE PROGRAMS

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1. Alcohol Cases - Mitigation

**In re Brandt**, 766 N.W.2d 194 (Wisconsin 2009)

The Office of Lawyer Regulation brought a complaint against Attorney Brandt for failure to properly supervise an employee and for multiple convictions of operating a motor vehicle while intoxicated. The Supreme Court found that the lawyer’s multiple drunk driving convictions did constitute a violation Wis. Sup. Ct. R. 20:5.3(b) because his convictions did demonstrate a serious lack of respect for the law and, therefore relate to his fitness as a lawyer. The court imposed a public reprimand. In this case, a sanction beyond a public reprimand was not necessary because they found that Attorney Brandt was the victim of his employees embezzlement, accepted responsibility for his failure to supervise his employee, had entered pleas to the drunk driving charges and served a significant jail sentence, paid substantial fines, had taken remedial action to address his drinking problem and sought treatment.

**In re Smith**, 2010 Kan. LEXIS 420 (Kansas 2010)

At some point after becoming a lawyer, Smith developed an alcohol problem and entered an inpatient program as well as an agreement at his firm that greatly limited his ownership interest if he continued to drink alcohol. However, Smith continued to drink and boarded a plane while intoxicated. As a result of his behavior on the plane, Smith was charged with disorderly conduct, public intoxication and vandalism. The count of vandalism was dismissed. Smith pled to the other two counts, self-reported his behavior to the Disciplinary Administrator, and participated in a 90-day inpatient treatment program for substance abuse. However, after completing the program, Smith drank alcohol again on several occasions, which he again reported to the Disciplinary Administrator. In determining what disciplinary action would be appropriate, the court considered Smith’s pattern of misconduct, his substantial experience in the practice of law, and his illegal conduct as aggravating factors. The court also considered absence of a prior disciplinary record, absence of a dishonest or selfish motive, Smith’s alcoholism, his excellent reputation as a lawyer, and Smith’s full and free acknowledgment of misconduct as mitigating factors. Ultimately, the court recommended that Smith serve two years of supervised probation. If Smith violates the terms of his probation, he will be suspended from practicing law for one year.

**In re Frisch**, 2010 Wisc. LEXIS 54 (Wisconsin 2010)

Subject to further editing and modification

The Office of Lawyer Regulation brought disciplinary action against Attorney Frisch for failing to act with diligence and promptness in handling prosecutions and failing to expedite litigation, failing to obey court orders to produce specified items of discovery and failing to comply with legally proper discovery requests. Frisch did not deny these charges. However, the court concluded that the Office of Lawyer Regulation failed to meet its burden of presenting clear,
satisfactory and convincing evidence of dishonesty, fraud and deceit, or misrepresentation. Those charges were based on Frisch having files in his car. Although it may have been possible to infer that Frisch kept files in his car in order to hide them from supervisors, it was equally possible to conclude that because of the attorney’s alcohol consumption and dependence he kept files in his car because he intended to work on them at home, or that he simply forgot or put out of his mind which files were actually in his car at any time. The court publicly reprimanded Frisch.

**Disciplinary Counsel v. Landis, 924 N.E.2d 361 (Ohio 2010)**

Based on Attorney Landis’ felony conviction for operating a motor vehicle under the influence of alcohol, the disciplinary Counsel charged Landis with engaging in conduct that adversely reflects on his fitness to practice law. Landis then entered into a consent-to-discipline agreement. There was no evidence presented that demonstrated aggravating factors. The Court accepted the discipline agreement which suspended Landis from the practice of law in Ohio for one year. The suspension would be stayed on the conditions that Landis: (1) remain alcohol and drug free; (2) enter into a three-year contract with the Ohio Lawyers Assistance Program and comply wit the terms of that contract; (3) attend, at a minimum, a weekly meeting of Alcoholics Anonymous; and (4) comply with any terms of his criminal probation until such time that his probation has been terminated.

**In re Recker, 926 N.E.2d 1015 (Indiana 2010)**

Attorney Recker pled guilty to operating while intoxicated with a habitual substance offender enhancement. The Indiana Supreme Court Disciplinary Commission charged Recker with committing a criminal act that reflects adversely on the lawyer’s honesty, trustworthiness, and fitness as a lawyer. The Supreme Court approved an agreement under which Recker would be suspended for six-months, stayed upon completion of 12 months probation with monitoring. The attorney’s disciplinary history was an aggravating factor. However, the fact that the attorney’s misconduct was not directly related to his practice of law, that he expressed remorse, cooperated with the Commission, and sought treatment to recover from his alcohol were all mitigating factors.

**Iowa Supreme Court Atty. Disciplinary Bd. v. Johnson, 774 N.W.2d 496 (Iowa 2009)**

The Supreme Court agreed with the Disciplinary Board that Attorney Johnson’s conviction for operating a motor vehicle while intoxicated, third offense, constituted an ethical violation. The fact that the attorney was not practicing law at the time of his offense did not change the conclusion that the lawyer engaged in misconduct because lawyers do not shed their professional responsibility in their personal lives. The Supreme Court suspended Johnson’s license for six months. There were several mitigating factors in this case. There was no evidence that the attorney neglected or injured any of his clients by his drinking, he fully cooperated with the board, was in full compliance with his parole and work release conditions, and was actively working to control his alcoholism. If Johnson wishes to apply for reinstatement he is required to provide documentation from a health care professional regarding maintenance of his sobriety and fitness to practice law.
Disciplinary Counsel v. Russo, 923 N.E.2d 144 (Ohio 2010)

A judge was convicted twice on charges of disorderly conduct because of physical altercations with his girlfriend. He admitted that his conduct violated ethical standards that the Ohio judiciary is required to meet. He also explained that he suffered from alcohol dependency. The Board of Commissioners determined that his alcohol dependency constituted a mitigating factor because he provided proof of the following factors: (1) he was alcohol dependent; (2) the dependency contributed to cause the misconduct; (3) he had been sober since the second incident due to successfully completing an approved treatment program; and (4) he was able to return to the ethical professional practice of law, provided he remain in recovery. The judge was suspended from the practice of law for one year. However, the suspension was stayed on the conditions that the judge complete a two-year probation.

Disciplinary Counsel v. Nicks, 923 N.E.2d 598 (Ohio 2010)

The Ohio Disciplinary Counsel brought action against Attorney Nicks for mishandling a probate matter by cashing a check without approval of the probate court and failing to file an estate tax return. In addition, he cashed a check from another client without informing him his license had been suspended and failed to appear at a status conference in a separate case. The board found three mitigating factors. First, the respondent had no prior disciplinary record. Second, the respondent cooperated fully in the process. Third, respondent’s chemical dependence was a mitigating factor for the following reasons: a medical professional diagnosed Nicks with alcohol dependence, that dependence contributed to the misconduct, Nicks was in compliance with an approved treatment program, and a there was a prognosis from a medical professional that Nicks would be able to return to a competent ethical professional practice under specific conditions. Nicks was suspended from the practice of law in Ohio for two years, with 18 months of the suspension stayed on the condition that the lawyer receive assistance in recovery from drug and alcohol dependence.

In re Martenet, 913 N.E.2d 1242 (Indiana 2009)

Attorney Martenet pled guilty to operating a vehicle with a B.A.C. of 0.15% or greater. After Martenet’s arrest, the Commission sent him a claim of misconduct. He did not respond to this or two-follow up letters. Martenet also had three prior convictions for OWI. He also had a disciplinary history that included continuing legal education noncompliance, failure to respond to show cause petitions, and failure to pay costs from the show cause action. Facts in mitigation were: (1) Respondent is in compliance with an interim monitoring agreement; (2) he is currently attending Alcoholics Anonymous; and (3) he has admitted the charged misconduct. The court suspended Martanet from the practice of law for one year without automatic reinstatement.

In re Kelsay, 919 N.E.2d 1135 (Indiana 2010)
Attorney Kelsay was charged with operating a motor vehicle while intoxicated and later pled guilty to reckless driving. Later in the year, Kelsay was again charged with operating a motor vehicle while intoxicated. The parties agreed that Kelsay violated Indiana rules of professional responsibility which prohibit committing a criminal act that reflects adversely on honesty, trustworthiness or fitness as a lawyer. Facts in mitigation include: (1) Kelsay reported the second conviction to the Commission and has been cooperative; (2) he has no disciplinary history; and (3) he sought treatment for alcohol dependency and has entered into a monitoring agreement with the Indiana Judges and Lawyers Assistance Program. Kelsay was suspended from the practice of law for a period of 90 days, all stayed and subject to completion of 36 months of probation.

*In re Bartlett*, 913 N.E.2d 201 (Indiana 2009)

Attorney Bartlett pled guilty to two counts of operating a vehicle and causing serious bodily injury with a blood alcohol count of .08 or more. After his arrest, Bartlett contacted the Judges and Lawyers Assistance Program and was referred for a substance abuse assessment. The assessor concluded that Bartlett was remorseful, that he took responsibility for his actions and that there was no evidence of repeated problematic behavior related to substance abuse or dependency. The parties agree that Bartlett violated the Indiana Professional Conduct Rules. The court suspended Bartlett from the practice of law for a period of 90 days, all stayed subject to completion of at least two years of probation.

*In re Baer*, 21 So. 3d 941, (Louisiana 2009)

While Attorney Baer was on interim suspension from the practice of law for driving while intoxicated, she was arrested a second time for the same offense. The commission found that Baer’s multiple DWI offenses were a violation of the Rules of Professional Conduct. In aggravation, the Committee found a pattern of misconduct and substantial experience in the practice of law. The mitigating factors were the absence of a prior disciplinary record, absence of dishonest or selfish motive, and chemical dependency. Attorney Baer was suspended from the practice of law for a period of one year and one day, retroactive to the date of her interim suspension. A suspension of more than one year will require respondent to go through a reinstatement hearing should she want to return to the practice of law in the future.

*In re Russell*, 928 N.E.2d 198

While employed as a deputy prosecutor, Attorney Russell was arrested and pled guilty to operating a vehicle with a blood alcohol content of .15% or more. The parties agree that this is a violation of the Indiana Rule of Professional conduct that prohibits engaging in conduct prejudicial to the administration of justice. Russell sought an alcohol evaluation and completed a 12-hour program and St. Vincent Stress Center. She is no longer employed as a prosecutor and has no disciplinary history. The parties agreed a public reprimand was the appropriate discipline and the Court approved the agreement.

*In re Beckley*, 926 N.E.2d 485 (Indiana 2010)
Attorney Beckley was conditionally admitted to the Bar pursuant to terms and conditions established in a consent agreement. However, two months after signing the consent agreement, Beckley admitted that he was recently arrested in New Orleans for driving while intoxicated. This violated the condition of his agreement that required he have no new arrests or incidents related to the use of alcohol. The attorney was given one more chance, but again violated the agreement by placing his license to practice law on inactive status. The Board revoked the attorney’s conditional admission to practice law in Indiana. The fact that Beckley was given repeated opportunities to conform his behavior to the standards of those seeking admission to the Bar, but failed to meet those standards was an aggravating factor. However, because Beckley took positive strides toward lasting sobriety, the Board permitted him to submit a new application for admission to the Bar after three years rather than five years.

2. Drug Cases

In re Clegg, 2010 La. LEXIS 1665 (Louisiana 2010)

Partners at Attorney Clegg’s firm became suspicious that he was using drugs as a result of his erratic behavior and appearance. With the help of the Lawyers Assistance Program they performed an intervention. Clegg admitted to using crack cocaine and was admitted to a nine-week inpatient treatment program. After returning to the firm, Clegg tested positive for cocaine twice and was charged with violating the Rules of Professional Conduct. In mitigation, the board found respondent had no prior disciplinary record. In aggravation, the board found a pattern of misconduct and substantial experience in the practice of law. The court suspended Clegg from the practice of law for a period of one year and one day. All but six months of the suspension was to be deferred. Upon reinstatement, Clegg will be placed on unsupervised probation for a period of two years and shall fully comply with all obligations of his recovery agreement.

In re Jordan, 686 S.E.2d 682 (South Carolina 2009)

Attorney Jordan was arrested and charged with possession of cocaine with intent to distribute, possession of cocaine within close proximity of a school, possession of marijuana, possession of drug paraphernalia and several other traffic offenses. Respondent entered into and successfully completed a pre-trial intervention program to dispose of the drug-related charges. However, Clegg did admit that he was in possession of drugs and drug paraphernalia and therefore violated the Rules of Professional Conduct. The court suspended Clegg from the practice of law for nine months, not retroactive to his interim suspension.

Ohio State Bar Ass’n v. Peskin, 927 N.E.2d 598 (Ohio 2010)

Attorney Peskin was arrested and charged with possession of crack cocaine and resisting arrest. Peskin completed an intervention-in-lieu-of-conviction program and the charges were dismissed. The Board of Commissioners determined that Peskin’s conduct violated the Rules of Professional Conduct. In mitigation, the court noted that the attorney did not have a prior disciplinary record and his conduct was not motivated by dishonest or selfish motives. However,
in aggravation, Peskin terminated participation in an assistance program, failed to appreciate the seriousness of his conduct and substantial risk of harm to clients. Chemical dependency was not a mitigating factor in this case because the doctor’s report did not specifically diagnose chemical dependency and did not state to a reasonable degree of medical certainty that the attorney was able to engage in competent ethical and professional practice of law. The attorney was suspended from the practice of law for two years, with 18 months stayed.

**In re Perry**, 913 N.E.2d 191 (Indiana 2009)

Attorney Perry was charged with and pled guilty to dealing a Schedule III controlled substance, a Schedule II controlled substance, and methamphetamine. The parties agreed that these convictions constituted a violation of the Indiana Rules of Professional Responsibility. In mitigation, Perry sought and completed treatment for substance abuse, accepted responsibility for her misconduct, and successfully completed the first three of four phases of the program required by her sentence modification. The court approved and ordered the attorney be suspended from the practice of law for not less than two years or until her criminal sentence had been completely served.

**In re Collins**, 919 N.E.2d 711 (Massachusetts 2010)

Attorney Collins loaned a friend $7,000 from a client’s funds. When the friend repaid the money, the lawyer deposited it in his own business account and spent most of it for his own purposes. At the point this occurred, Collins was using cocaine on an almost-daily basis. Collins was suspended from the practice of law indefinitely and required to pay the remainder of his debt to his client. The court found that this was an appropriate sanction, rather than disbarment, because of the mitigating factors in this case. Those factors include: taking responsibility for his actions by self-reporting his misdeeds, voluntarily repaying a substantial portion of the money he took and acknowledging his obligation to pay the remainder, successfully completing substance abuse treatment, and devoting his energies to the worthy endeavors of teaching in the public schools, coaching sports teams, and using his experiences to teach young people about the dangers of illegal drug use.

**In re Alexander**, 2010 La. LEXIS 1547 (Louisiana 2010)

Attorney Alexander was convicted for unlawfully selling prescription medication to an undercover police officer. The court held that disbarment was the baseline sanction, as the attorney knowingly violated duties owed to the public, the legal system, and the legal profession. He caused actual harm to the legal system and profession and potentially serious harm to the public. The attorney’s refusal to acknowledge the wrongful nature of his conduct was an aggravating factor.

**In re Clark**, 25 So. 3d 728 (Louisiana 2009)

Attorney Clark was arrested and charged with possession with intent to distribute marijuana, distribution of marijuana, possession of cocaine, and possession of drug paraphernalia. The evidence in the criminal case was suppressed and the case was not prosecuted. The court noted
that the exclusionary rule did not apply in disciplinary proceedings. The attorney also failed to prove the elements of entrapment. The attorney did admit to using marijuana for medicinal purposes and giving marijuana to a friend. This constituted a knowing violation of the duties owed to the public and the legal profession. The aggravating factors in this case were the attorney’s pattern of misconduct, substantial experience in the practice of law, and illegal conduct. The mitigating factors were absence of a prior disciplinary record, personal or emotional problems, full and free disclosure to the disciplinary board, a cooperative attitude and remorse. The court suspended the attorney from the practice of law for a period of two year, with credit for time served on the interim suspension.

2. Alcohol Cases – No Mitigation

No new cases found.

3. Drug Cases - Mitigation

No new cases found.

4. Drug Cases – No Mitigation

No new cases found.

5. Depression Cases - Mitigation

Disciplinary Counsel v. McShane, 902 N.E.2d 980 (Ohio 2009)

Attorney McShane received a stayed two-year suspension. McShane was struggling with depression as early as 2001. During his bout with depression, McShane engaged in conduct that violated several local Rules. For instance, McShane accepted money without providing legal services or returning the money. Furthermore, McShane failed to participate in the disciplinary process. McShane’s misconduct was apparently due to his struggle with depression. Otherwise, McShane had a good reputation and was professionally competent. McShane eventually paid restitution to his clients for accepting fees without providing services.

In re Schumaker, 287 Ga. 128 (Georgia 2010)

Attorney Schumaker received a Review Panel reprimand. While Schumaker was employed as a public defender in 2007 and 2008, four clients filed grievances against him. Realizing that he was losing an on-going battle with depression, Schumaker resigned from his job in September 2008 to focus on his health problems. He sought treatment for depression and alcoholism from the State of Georgia's Employees Assistance Program and private health providers prior to the receipt of any investigation regarding the four grievances. He did not seek reinstatement until April 2009, at which time he petitioned for voluntary discipline and the State Bar filed a response supporting his petition. Schumaker admitted that in connection with his
representation of at least two of the clients he failed to communicate with reasonable diligence and promptness in violation of the Georgia Rules of Professional Conduct. In an effort to win his battle with depression, Attorney Schumaker has also employed the assistance of the State Bar of Georgia's Lawyer Assistance Program and continues to be actively involved in local 12-step groups, attending an average of seven meetings per week.

_In re Mattson_, 924 N.E.2d 1248 (Indiana 2010)

Attorney Mattson was suspended from practicing law for six months. He also received two years probation after the six months is completed, with the following conditions: (1) Mattson shall meet all requirements of his monitoring agreement with the Judges and Lawyers Assistance Program during his probation and (2) if Mattson violates his probation, the Court may revoke his probation and he may be required to actively serve the suspension without automatic reinstatement. His misconduct was caused in part by depression, for which he has since been under successful treatment. Mattson admitted that in two separate cases, he was appointed to represent a criminal defendant on appeal, was granted several extensions of time to file a brief (including extensions after a "final" extension), filed defective documents, was held in contempt by the Court of Appeals, and was replaced by other appellate counsel. In one case, no brief was filed and the appeal was dismissed. Mattson has no disciplinary history and was cooperative throughout his disciplinary proceedings.

6. Depression Cases - No Mitigation

_Matter of Rudolph_, 2010 NY Slip Op 6005

Attorney Rudolph was disbarred in New York. His road to disbarment began with misconduct in Florida consisting of neglect of a legal proceeding, misrepresentations of his retainer, failure to cooperate with the disciplinary authorities, and continuing to practice law while in “delinquent” status. Based on this misconduct and five prior disciplinary proceedings in Florida between 2004 and 2007, Rudolph was disbarred from by the Florida Supreme Court in March of 2008. After failing to advise the New York authorities of his Florida disbarment, the New York Grievance Committee subsequently filed a petition for reciprocal disciplinary action. Attorney Rudolph argued that such a judgment would be unjust, attributing the Florida proceeding to an acute major depressive episode triggered by a series of traumatic events, culminating in his father’s death. The grievance committee found the lawyer’s assertions of severe depression unsupported.

_Matter of Auslander_, 2010 NY Slip Op 3834
Attorney Auslander was suspended from the practice of law in New York until further order by the court. Auslander was first admitted to practice law in New York in December of 1990 and engaged mainly in real estate transactions. Between October 2007 and November 2008, five complaints were filed against him involving various real estate matters, including his failure to pay a homeowner’s transfer tax and failure to provide closing statements after selling several apartments. After some delay and several extensions, Attorney Auslander filed a response to two of the five complaints, explaining that he was depressed and distracted as the result of his father’s illness and death. He did not file responses to the other three complaints. Subsequently, Auslander failed to make several appearances, failed to provide the court with numerous requested documents, and was delinquent in making payments of his registration fees for 2008-9.

*State ex rel. Okla. Bar Ass’n v. McCoy*, 2010 OK 42

Attorney McCoy was subject to immediate interim suspension in Oklahoma awaiting final resolution of a pending disciplinary proceeding in the United States Court of Appeals. In early 2010, McCoy was disbarred from the Tenth Circuit. He maintained that he suffers from debilitating depression that makes him mentally incapable to practice law. However, before his suspension in Oklahoma but after his disbarment from the Tenth Circuit, McCoy continued to practice law despite allegations that he was unfit to do so.

7. **Other Mental Health Cases**

   No new cases found.

8. **Physical Health**

*Cleveland Metro. Bar Ass'n v. Kaplan*, 124 Ohio St. 3d 278 (2010)

Attorney Kaplan was indefinitely suspended from the practice of law in Ohio. Kaplan was admitted to practice law in Ohio in 1967 and had no prior disciplinary record. In October 2007, in response to four different grievances filed against him, Kaplan sent a letter to the investigating attorney stating that he had recently suffered a significant traumatic head injury and also suffered from anxiety, chronic obstructive pulmonary disease, and diabetes. Kaplan’s misconduct included neglecting client matters, failing to maintain a record documenting his receipt of client fees, failing to promptly comply with reasonable client requests for information, and failing to keep a client reasonably informed about the status of the client’s legal matters. In addition to his failure to cooperate with disciplinary proceedings, there was no evidence that Kaplan tried to make restitution for financial losses sustained by his clients.
**Iowa Supreme Court Atty. Disciplinary Bd. v. Hoglan, 781 N.W.2d 279 (Iowa 2010)**

Attorney Hoglan was suspended from practicing law for thirty days, with automatic reinstatement to occur after thirty days if Hoglan provided an evaluation from a licensed health care professional verifying his fitness to practice law. Since high school, Holglan had chronic back problems and was also diagnosed with Scheuermann's disease, a degenerative bone condition. Not letting that hold him back, he engaged in private practice of a general nature in Iowa in 1983. Over time Hoglan’s condition worsened, and from February 2007 through the summer of 2007 Hoglan underwent three serious back surgeries. It was during this time that Hoglan violated the Iowa Rules of Professional Conduct by neglecting several client matters resulting in the dismissal of three appeals for failure to prosecute and the dismissal of one claim for failure to perfect an administrative appeal. At his disciplinary hearing, Hoglan testified he believed all four appeals to be meritorious and attributes his misconduct to the effect of his chronic back pain on his legal practice. In addition to this disciplinary matter, Hoglan was publicly reprimanded on January 2, 2007 for similar misconduct - neglecting two client matters resulting in the dismissal of two appeals.

9. **Gambling Cases**

No new cases found.

10. **Sexual Behavior Cases**


Attorney Haigh was suspended from practicing law for two years by the United States District Court for the Northern District of Illinois. In addition to his practice in Illinois, Haigh was also admitted to practice law in Indiana. In 2008, he was suspended from practicing law in Indiana based on his violation of the Indiana Professional Rules of Conduct by committing criminal acts that reflected adversely on his honesty, trustworthiness, and fitness as a lawyer. The misconduct leading to these violations involved furnishing liquor to a minor and having sexual conduct with a child under 18. During the time that this conduct occurred, Haigh also repeatedly assured the parents of the minors and the school they attended, where Haigh served as a coach, that he had no inappropriate relationship with the minors. Based on this conduct, the United
States District Court found that Haigh did not show cause for why the court should not impose the same reciprocal discipline that was imposed in Indiana.

11. Admission

_In re Application of Lazcano_, 222 P.3d 896 (Arizona 2010)

Attorney Lazcano was denied admission to practice law in Arizona. In 2002, while still an undergraduate student, Lazcano was indicted for burglary and sexual assault. He pled no contest to attempted sexual assault and the court deferred adjudication while Lazcano completed a ten year term of probation. Lazcano passed the Arizona bar in 2008 and applied for admission thereafter. Although the Arizona Committee on Character and Fitness recommended that Lazcano be admitted to practice law, the court decided that the pending charge in Texas precluded Lazcano from admission to practice law in Arizona. However, they did note that they would not automatically exclude all applicants guilty of serious past misconduct from practicing law in Arizona.

12. Reinstatement

_In re Reinstatement of Doe_, 2009 WL 1085741 (Mississippi 2009)

Attorney Doe’s petition for reinstatement was granted. Doe suffered from anxiety and depression after a client brutally sexually assaulted her. Doe was subsequently suspended for 180 days, because of her failure to respond to three formal complaints against her. Doe, however, moved for transfer to inactive disability status. Doe’s motion was granted. After being diagnosed with post-traumatic stress disorder, Doe was treated for the disorder for two years. Doe petitioned for reinstatement after she completed treatment. Doe included in her petition a medical report from her psychiatrist. According to the psychiatrist, “[Doe] was capable of practicing law again, without any restrictions.”

_In re Reinstatement of Jones_, 203 P.3d 909 (Oklahoma 2009)

Attorney Jones’s petition for reinstatement was granted. Jones resigned from the legal profession after a successor guardian to his client filed a lawsuit seeking missing funds from the guardianship. Jones was a well-respected attorney with a good practice; however, he recognized his character defects when confronted. Jones waited ten years before pursuing reinstatement. Jones declined to apply sooner because he did not believe he was rehabilitated. Jones appeared remorseful about his actions, and acknowledged the deleterious effect his conduct had on the legal profession. The Court found that Jones had met his burden of proving his fitness to return to the legal practice.
In re Rees, 2010 U.S. Dist. LEXIS 43235

Attorney Rees’s petition for reinstatement was dismissed. Rees was admitted to practice law in both the state of Arkansas and in the United States District Court for the Eastern District of Arkansas. In February 2009, Rees was suspended from practicing law by the Arkansas Supreme Court based on findings of serious misconduct in three separate cases: one for 42 days and two for 30 days, all consecutive to each other. The misconduct included encouraging his clients to lie and deceive, giving financial assistance to his clients, paying off a client to settle a sexual harassment claim she had against him, and having sexual relations with another client. Several days later, Rees was directed to show the Eastern District why it should not impose the same discipline that was imposed by the state of Arkansas. Based on his failure to respond, Rees was suspended for 120 days. In June 2009 his Arkansas license was reinstated, so he petitioned to reinstate his practice in federal court. The court denied his reinstatement, ruling that he had not shown by clear and convincing evidence that he had the moral qualifications, competency, and learning in the law required for admission to practice law in federal court. Although Rees’ clients from his state disciplinary proceedings testified that he was a competent and zealous advocate, Rees’ own testimony proved that he was an extremely poor advocate even for himself.