

JAN 12 2021

JEFFREY P. COLWELL
CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

IN THE MATTER OF
MICHAEL LAWRENCE

Disciplinary Action No. 10-DP-60

ORDER DENYING REINSTATEMENT AND DENYING RELIEF FROM THE RULE OF
GOOD STANDING

Before the Disciplinary Panel (“the Panel”) are the Application for Reinstatement or Readmission to the Bar of the Court filed by Petitioner, Michael Lawrence (“Petitioner”), the recommendation of the Committee on Conduct (“the Committee”) that the Panel deny Petitioner’s application, and Petitioner’s response under D.C.COLO.LAttyR 11(a)(1) to the Committee’s recommendation.

Background

On June 2, 2010, a jury in Denver District Court found Petitioner guilty of three felony counts: Attempting to Influence a Public Servant, Forgery, and Offering a False Instrument for Recording in the First Degree. He was sentenced thirty days in jail and three years of probation.

On September 1, 2010, the Colorado Supreme Court entered an order that Petitioner was immediately and indefinitely suspended from the practice of law in the state of Colorado. The Colorado Supreme Court subsequently notified this Court of Petitioner’s suspension. Based on his suspension by the Colorado Supreme Court, the Clerk of Court downgraded Petitioner’s bar status to “not in good standing,” effective September 1, 2010. On October 5, 2010, this Court ordered Petitioner to show cause in writing why further sanctions should not be imposed for his failure to comply with the duty to self-report his discipline under D.C.COLO.LCivR 83.3E and

D.C.COLO.LCrR 57.5E.¹ Petitioner failed to respond, and on November 12, 2010, Chief Judge Wiley Y. Daniel ordered Petitioner removed from the roll of attorneys permitted to practice before the Court.

On December 23, 2010, the Colorado Supreme Court entered an Order and Notice of Disbarment, disbarring Petitioner from the practice of law in the state of Colorado, effective immediately. Petitioner failed to report his criminal convictions, his suspension by the state bar, and his subsequent disbarment from the practice of law in Colorado, all in violation of the local rules of this Court in effect at the time. *See* D.C.COLO.LCivR 83.3E and D.C.COLO.LCrR 57.5E. Had he so informed the Court of the grounds for his state disbarment, Petitioner would have been automatically disbarred upon his criminal convictions becoming final under D.C.COLO.LCivR 83.5J1 and D.C.COLO.LCrR 57.7J1.²

On June 19, 2020, Petitioner filed an Application for Readmission or Reinstatement to the Bar of the Court pursuant to D.C.COLO.LAttyR 11. On August 18, 2020, the Committee recommended that the Panel deny Petitioner's reinstatement application. On September 3, 2020, Petitioner filed a response to the Committee's recommendation, arguing for the first time that his application for reinstatement was "in a manner of speaking" an application under D.C.COLO.LAttyR 3(d) for relief from the rule of good standing. Petitioner asserts that the Panel must declare void the underlying criminal judgment that led to his disbarment, and upon entering an order voiding his criminal conviction, the Panel must reinstate him. Notably,

¹ D.C.COLO.LCivR 83.3E and D.C.COLO.LCrR 57.5E were the pertinent U.S. District Court local rules in effect at the time Petitioner was disciplined, now superseded by local attorney rule D.C.COLO.LAttyR 4.

² D.C.COLO.LCivR 83.5J1 and D.C.COLO.LCrR 57.7J15E were the pertinent U.S. District Court local rules in effect at the time Petitioner was disciplined, now superseded by local attorney rule D.C.COLO.LAttyR 8.

Petitioner has not been readmitted to the Colorado bar and, consequently, remains disbarred in the only jurisdiction to which he was ever admitted to practice law.

Analysis

A district court “has discretion to adopt local rules.” *Frazier v. Heebe*, 482 U.S. 641, 649 (1987); 28 U.S.C. § 2071, Fed. R. Civ. P. 83.³ D.C.COLO.LAttyR 3(c) states:

An attorney admitted to the bar of this court must remain in good standing in all courts where admitted. In good standing means not suspended or disbarred by any court for any reason....An attorney who is not in good standing shall not practice before the bar of this court or continue to be an attorney of record in any pending case. On notice to this court from the suspending or disbaring jurisdiction, or otherwise, the clerk or this court shall make a notation in the court record of such lack of good standing.

D.C.COLO.LAttyR 3(c).

Under D.C.COLO.LAttyR 3, Petitioner must be in good standing in all courts where he has been admitted in order to be a member of this Court’s bar. *See Mattox v. Disciplinary Panel of U.S. Dist. Court for Dist. of Colorado*, 758 F.2d 1362, 1365 (10th Cir. 1985) (Petition for reinstatement viewed as more akin to a case involving initial admission than to one involving suspension or disbarment.); *see also In re Smith*, 329 F. App’x 805, 808 (10th Cir. 2009)(Denial of application for readmission while petitioner remained disbarred by the Colorado Supreme Court affirmed on appeal); *In re Kandekore*, 460 F.3d 276, 280 (2d Cir. 2006)(District Court’s decision to set as a minimum threshold for reinstatement that the attorney meet all the requirements for initial admission held not unreasonable.).

Petitioner is not in good standing in the Colorado Supreme Court: the only licensing jurisdiction to which he has been admitted. The Colorado Supreme Court recently denied his petition for readmission to the Colorado bar. *See People v. Michael Richard Lawrence*,

³ This Court uses the local rules effective in 2010 – the time of Petitioner’s conviction – to review his previous communications with the Court and uses the current local rules to consider his request for reinstatement and relief from the rule of good standing.

19PDJ061 (October 2, 2019). This Court has the authority to determine who is admitted to its bar. The local rules prevent an individual in Petitioner's position from becoming a member of the bar or being reinstated as a member of the bar. Admission, readmission, or reinstatement in this Court is an essential derivative of admission and good standing in a state court bar. In recommending denial of Petitioner's application for reinstatement, the Disciplinary Panel does not "give effect" to the judgment of the state court, but rather adheres to the local rules adopted by the Court. Until Petitioner is in good standing in all courts to which he has been admitted, the Court will not consider him for reinstatement to the bar of this Court.

Additionally, Petitioner seeks relief from the rule of good standing under D.C.COLO.LAttyR 3(d). To prevail on a petition seeking relief from the rule of good standing, Petitioner has the burden under D.C.COLO.LAttyR 3(d)(2) to establish by clear and convincing evidence one of three factors:

1. That the procedure resulting in the discipline by the court was so lacking in notice or opportunity to be heard as to deny due process;
2. That the application of the rule of good standing would result in grave injustice; or
3. That the kind of misconduct resulting in the original discipline warrants substantially less severe discipline.

D.C.COLO.LAttyR 3(d)(2).

Relief from the Rule of Good Standing is applicable by its terms only to the disciplinary process that led to his disbarment, not to the underlying criminal convictions. With respect to the disbarment proceedings in state court, Petitioner offers no evidence in support of a claim for relief from the rule of good standing. He fails to reference any of the factors in D.C.COLO.LAttyR 3(d)(2) in either his petition or in his response to the Committee's recommendation. He has not challenged the adequacy of the process that led to his disbarment

by the Colorado Supreme Court or claimed that the misconduct resulting in the original discipline warrants substantially less discipline. Petitioner was convicted of three serious felonies, and disbarment is typically appropriate when an attorney engages in forgery or related fraudulent conduct. *See In re Lopez* 980 P.2d. 983, 984 (Colo.1999); *People v. Robertson* 908 P.2d. 96, 99-100 (Colo.1995). Petitioner does not assert that the application of the rule of good standing would result in a grave injustice, other than the assertion that the underlying criminal judgment upon which the disbarment was grounded was the result of a judgment that he alone deems void.

Petitioner does not seek from the Disciplinary Panel an order declaring his criminal judgment void. Instead he declares that “[t]he only impediment to the [Petitioner]’s membership in the bar of this court is a void judgment,” and the Panel, is barred “from giving effect to a void judgment.” *See Petitioner’s Response to Draft Recommendation*, p.1-2. However, no court has declared Petitioner’s criminal judgment void. Petitioner acknowledges his unsuccessful attempts to have the judgment reversed on appeal or collaterally set aside. *See Response to Question 10, Application for Readmission to the Bar* at 7. The arguments that Petitioner raises—that the evidence that the prosecution relied upon was inadmissible, that evidence that he sought to introduce was improperly denied, and various other Constitutional arguments—have been heard and rejected on appeal or forfeited as unreserved. *See Response to Question 13, Application for Readmission to the Bar*, p. 1. Petitioner’s arguments may well be grounds for state or federal habeas relief, but they do not render his criminal judgment void.

Moreover, the Panel has no authority under D.C.COLO.LAttyR 3(d)(2) to void the criminal conviction upon which Petitioner’s disbarment was grounded. An attorney may not collaterally attack a criminal conviction in a disciplinary proceeding: “Federal courts do have

authority to review collaterally state-court judgments in criminal cases, but only through habeas corpus.” *Beaven v. Roth*, 74 F. App’x 635, 638 (7th Cir. 2003); *see also In re Utz*, 769 P.2d 417, 422–23 (1989)(“[F]or purposes of State Bar disciplinary proceedings, the record of conviction is considered conclusive evidence of guilt...and petitioner may not collaterally attack it.”).

Conclusion

The Disciplinary Panel has reviewed Mr. Lawrence’s petition for reinstatement. Petitioner must be active and in good standing with the Colorado Supreme Court before seeking reinstatement with this Court. Moreover, the Panel does not possess the authority to void a criminal conviction entered by the State of Colorado merely upon a request for relief from the rule of good standing or upon an application for reinstatement to the bar of the court.

Wherefore, it is

ORDERED that the petition for reinstatement by MICHAEL LAWRENCE is DENIED.

It is further

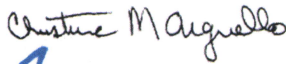
ORDERED that relief from the rule of good standing is DENIED.

Dated at Denver, Colorado this 12th day of January, 2021.

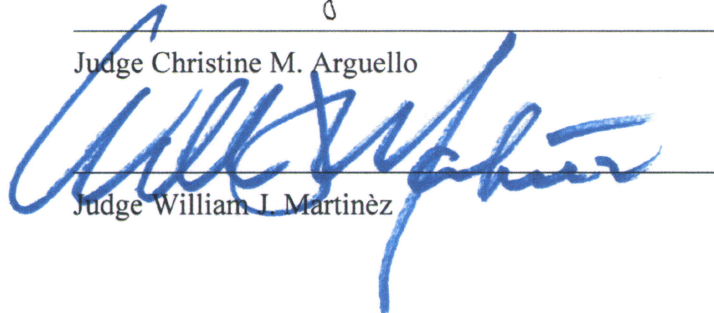
BY THE DISCIPLINARY PANEL OF THE COURT:



Chief Judge Philip A. Brimmer



Judge Christine M. Arguello



Judge William I. Martínez