

UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

No. 20-8002A

IN RE MICHAEL A. STEINBERG, MEMBER OF THE BAR

Before GREENBERG, MEREDITH, and FALVEY, *Judges*.

ORDER

Pending before the Court is Michael A. Steinberg's second motion for reinstatement to the Court's bar pursuant to Rule 11(a) of the Court's Rules of Admission and Practice. By way of background, Mr. Steinberg was the subject of a grievance by the Clerk of the Court. After notice and an opportunity to be heard, on October 21, 2020, the Court concluded that Mr. Steinberg violated the *Model Rules of Professional Conduct (Model Rules)* adopted by the American Bar Association—specifically, *Model Rules* 1.1 (Competence) and 1.3 (Diligence)—and committed professional misconduct as defined by Rule 4(b) of the Court's Rules of Admission and Practice. *In re Steinberg*, 33 Vet.App. 291, 291-92 (2020) (per curiam order). The Court suspended Mr. Steinberg from the Court's bar for 90 days from the date of the Court's order and ordered him to complete at least 6 hours of ethics-focused continuing legal education (CLE) before seeking reinstatement as a member of the Court's bar. *Id.* at 297-98. The Court also instructed that any motion for reinstatement must demonstrate Mr. Steinberg's qualifications pursuant to Rule 46(a) of the Court's Rules of Practice and Procedure. *Id.* at 298.

On January 28, 2021, Mr. Steinberg submitted his first motion requesting reinstatement to the Court's bar. After additional proceedings, on July 1, 2021, the Court concluded that Mr. Steinberg had not established entitlement to reinstatement. The Court held his motion in abeyance and afforded him the opportunity to submit a supplement to his motion. The Court's order provided as follows:

[The supplement to his motion] shall set forth *prima facie* evidence of compliance with all legal and ethical requirements under the rules and orders of the Court and all other licensing authorities under which the respondent practices law, including "evidence demonstrating that the Supreme Court of Florida and The Florida Bar have had an opportunity to review [the r]espondent's April 5, 2021[,] correspondence¹ and determine whether discipline will be imposed," and "a new certificate of good standing that post-dates any determination regarding whether Florida will impose discipline."

July 1, 2021, Order at 1 (first quoting May 2021 Committee on Admission and Practice (Committee) Report at 6; and then citing U.S. VET. APP. R. ADM. & PRAC. 11(c)(2)(B)(iii)).

¹ That correspondence informed both entities of the respondent's suspension from this Court's bar.

Mr. Steinberg notified the Court by a letter dated September 22, 2022, of his suspension from The Florida Bar, and he enclosed a copy of the Florida Supreme Court's August 26, 2022, order imposing discipline. He later filed a second motion for reinstatement on December 27, 2022. In support, he asserted that (1) he completed 6 hours of ethics-focused CLE within 90 days of his suspension from this Court, (2) The Florida Bar imposed a reciprocal 90-day suspension, effective from September 25, 2022, to December 26, 2022, (3) The Florida Bar stipulated that he would be automatically reinstated provided that he paid court costs and attended a specific ethics course, and (4) he paid the court costs in full and completed the required course. He attached to his motion an August 30, 2022, letter from The Florida Bar, outlining the terms of his suspension, including that he must comply with Florida Bar Rule 3-5.1(h) and, if applicable, Rule 3-6.1; a receipt for payment of the assessed costs; a certificate of completion for the ethics course; and a certificate of good standing from The Florida Bar, dated December 26, 2022.

Because neither the August 30, 2022, letter from The Florida Bar nor the August 26, 2022, order from the Florida Supreme Court explained the circumstances of, or reasoning for, the discipline, the Court found that it lacked confirmation of the bases for Mr. Steinberg's discipline. *See* Mar. 14, 2023, Order. Additionally, the Court concluded that, although Mr. Steinberg reported that The Florida Bar imposed reciprocal discipline, he had not submitted (1) *prima facie* "evidence demonstrating that the Supreme Court of Florida and The Florida Bar have had an opportunity to review [the r]espondent's April 5, 2021[,] correspondence and determine whether discipline will be imposed," and (2) "*prima facie* evidence of compliance with all legal and ethical requirements under the rules and orders of the Court and all other licensing authorities under which the respondent practices law,' such as compliance with the Rule Regulating The Florida Bar 3-5.1(h) and, if applicable, the Rule Regulating The Florida Bar 3-6.1." Mar. 14, 2023, Order at 2 (quoting July 1, 2021, Order at 1).

Concerned by Mr. Steinberg's continued failure to comply with his obligations after his suspension, the Court referred his second motion to the Committee on March 14, 2023, for a report and recommendation as to whether he should be reinstated. *See* U.S. VET. APP. R. ADM. & PRAC. 11(c)(2)(B). The Committee investigated the matter and filed with the Court a report of its findings and recommendations on June 9, 2023 (June 2023 Committee Report). In its report, the Committee discussed the facts and history of this matter, analyzed whether Mr. Steinberg has complied with the requirements for reinstatement, and recommended as follows:

[That Mr. Steinberg] be reinstated to practice before the [Court] under a 2-year probationary period. During this 2-year probationary period, if [r]espondent is counsel on any case that receives any show cause order from the Court, [r]espondent will be subject to automatic removal from practice before the [Court] unless [r]espondent provides a good cause justification excusing the reason for the show cause order within 7 days of the order. During this probationary period, [r]espondent must also practice under the supervision of another attorney in good standing barred at the [Court]. After the expiration of the 2-year probationary period and if [r]espondent has not received any show cause orders during this time—or, the Court has accepted [r]espondent's good cause justification if any show cause

orders have been issued—then [r]espondent will be reinstated in full and no longer require supervision.

June 2023 Committee Report at 7. The respondent did not submit a rebuttal report. *See* U.S. VET. APP. R. ADM. & PRAC. 2(d)(8).

For the reasons set forth in the June 2023 Committee Report, which the Court incorporates herein by reference, the Court concludes that Mr. Steinberg has now complied with the requirements set forth in our July 1, 2021, order. However, because it has taken him multiple attempts and Court orders to comply, the Court will adopt the Committee's recommendation that he be reinstated to the Court's bar under a 2-year probationary period, as outlined above.

Upon consideration of the foregoing, it is

ORDERED that the respondent's December 27, 2022, motion for reinstatement to the Court's bar is GRANTED IN PART, and Michael A. Steinberg, as of the date of this order, is reinstated to the Court's bar under a 2-year probationary period, as outlined above.

DATED: August 28, 2023

PER CURIAM.