BEFORE THE DISCIPLINARY BOARD OF THE SUPREME COURT OF PENNSYLVANIA

In the Matter of : No. 1483 Disciplinary Docket No. 3

Nos. 55 DB 2009 & 166 DB 2010

JOHN P. HALFPENNY :

Attorney Registration No. 85041

PETITION FOR REINSTATEMENT : (Montgomery County)

REPORT AND RECOMMENDATION OF THE HEARING COMMITTEE

I. SUMMARY OF THE CASE

This case commenced on a Petition for Reinstatement to the Practice of Law filed by John P. Halfpenny, ("Petitioner") on October 13, 2022.

On March 1, 2023, a Prehearing Conference was held before the Chair, Jeffrey A. Krawitz, Esquire. The Reinstatement Hearing proceeded on April 25, 2023, in front of a Hearing Committee panel comprised of Chair, Jeffrey A. Krawitz, Esquire, Lauren A. Hughes, Esquire, and Christina M. Finello, Esquire.

Petitioner filed his brief in support of reinstatement on May 16, 2023. The Office of Disciplinary Counsel filed a Letter in lieu of a Brief to the Hearing Committee on May 19, 2023 and advised that it did not oppose the Petition.

For the reasons below, the Hearing Committee now recommends that the Petition for Reinstatement be granted, and that the Petitioner be reinstated to the practice of law in the Commonwealth.

II. STATEMENT OF THE CASE

On December 5, 2008, Petitioner entered a consolidated plea and a no contest plea to attempted burglary, criminal trespass, harassment, three counts of stalking, three counts of contempt for violating a PFA order, and possessing an instrument of crime. The convictions stemmed from Petitioner's actions against his ex-wife. Petitioner and his exwife divorced in July 2008. Prior to the divorce, in January 2007, Petitioner's ex-wife obtained a protection from abuse order (PFA) from the Petitioner. Petitioner violated the PFA by first making 70 to 90 unauthorized phone calls to his ex-wife over a five-day time period, then Petitioner violated the PFA again a couple of months later by having unauthorized contact with his ex-wife. Petitioner called his ex-wife's mother and told her that something would happen to all of them including his ex-wife. Petitioner then appeared in his ex-wife's backyard with a beige bag. He was observed fleeing the area and dropping the bag. In the bag, there was a roll of duct tape, an extension cord, a book of matches, a pair of leather gloves, a black scarf, and 13-inch kitchen knife. Petitioner's blood was found in several areas of the yard, on the outside of the house, and the surrounding patio area. Petitioner was sentenced to a total combined sentence of 25 months to 50 months of incarceration to be followed by a consecutive 17 years of probation.

While incarcerated at SCI Camp Hill, Petitioner was arrested and charged with possession of child pornography and unlawful use of a communication facility. This conduct occurred in January 2007 but was not reported to the police until March 25, 2009. Petitioner's ex-wife found photographs depicting images of child pornography in a guitar case belonging to the Petitioner. In a subsequent letter to his ex-wife, Petitioner admitted

to downloading the images from their home computer. On February 24, 2010, Petitioner entered a guilty plea to possession of child pornography and unlawful use of a communication facility. Petitioner was sentenced to a total combined sentence of 5 months to 23 months of incarceration followed by a consecutive 3-year period of probation. The sentence in this case was to be served consecutively with the sentence imposed in the previous case.

On October 30, 2009 and on May 6, 2011, the Office of Disciplinary Council filed a Petition for Discipline against the Petitioner corresponding to each of his criminal convictions. On May 25, 2011, the Board consolidated both disciplinary matters, and stayed further disciplinary proceedings pending Petitioner's release from custody. After his release in October 2014, Petitioner submitted a Voluntary Resignation Statement to the Court. On December 10, 2014, the Court accepted Petitioner's resignation and ordered him disbarred on consent retroactive to October 7, 2009. Petitioner filed for reinstatement on October 13, 2022. Since his release from incarceration, Petitioner has taken successful steps towards recovery and rehabilitation that include maintaining his sobriety for 15 years, completing rehabilitation programs while incarcerated, working fulltime in the prison library, helping inmates attain their GED, completing rigorous outpatient programs, including extensive cognitive based therapy, participating in AA and speaking publicly about his recovery, writing letters to his children, acknowledging his ex-wife's primary role in raising their children, numerous charitable and civic endeavors, early release from probation in both of his criminal cases, and gainful employment as a

paralegal. Based upon the evidence presented, the Hearing Committee concludes that Petitioner has met his burden of proof by clear and convincing evidence.

III. RULINGS ON ADMISSION OF EVIDENCE

The following exhibits were admitted as evidence at the hearing before the Hearing

Committee:

- A. Petitioner's Exhibits, entered without objection and accepted at the 4/25/2023 hearing (Hearing Transcript (H.T.) 4/25/23, Pg. 295.)
 - 1. Statement of Resignation dated November 2, 2014
 - 2. Certified Copy of December 10, 2014 Supreme Court Order imposing disbarment
 - 3. October 10, 2019 Letter from the Disciplinary Board
 - 4. May 5, 2022 Letter from the PA Lawyers Fund for Client Security
 - 5. September 27, 2022 PA CLE Transcript
 - Certified Copies of Required Court Documents in Docket No. CP-51-CR-11907-2008
 - 7. Docket Sheet in Docket No. CP-51-CR-11907-2008
 - 8. ODC's Petition for Discipline, Docket No. 55 DB 2009
 - 9. December 23, 2014 California State Bar Disbarment Order
 - Certified Copies of Required Court Documents in Docket No. CP-51-CR-170-2010
 - 11. Docket Sheet in Docket No. CP-51-CR-170-2010
 - 12. ODC's Petition for Discipline, Docket No. 166 DB 2010
 - 13. August 9, 2018 Letter to State Bar from John P. Halfpenny
 - 14. August 13, 2018 Letter to State Bar from Aaron N. Holt, Esq.
 - 15. March 7, 2022 Letter to State Bar from John P. Halfpenny
 - 16. March 7, 2022 Letter to State Bar from William M. Shreve, Esq.
 - 17. Character Reference Letters
 - a. Aaron N. Holt, Esq.
 - b. William M. Shreve, Esq.
 - c. James K. Gumberg, Esq.
 - d. Paul O'Hara (first letter)
 - e. Paul O'Hara (second letter)
 - f. Sarah O'Hara
 - g. Michael Young
 - h. Florence Young
 - i. Christopher Mars
 - j. Edward A. Kurek. III

- k. Ken Guttroff
- I. Lizhu Zhong
- m. George Dehner
- n. Bryon Maxwell
- o. Shaun Williams, Sr.
- p. Ted Malinowski
- q. Daniel Atkinson
- r. Omer Yalcinanahtar
- s. Montez Parker
- 18. August 4, 2015 Report of Barry Zakireh, Ph.D.
- 19. April 2023 Report of Harry Orenstein, Ph.D.
- 20. Video of March 7, 2023 York City Council Meeting
- 21. Letters to Petitioner from his children
- 22. Petitioner's letters to his children
- 23. Online Payment Agreement between IRS and Petitioner
- 24. IRS Payments through 3/18/23
- 25. Online Notification of Extension of Time to File 2022 Tax Return
- 26. February 9, 2023 letter to PA Department of Revenue enclosing a check to satisfy PA income tax liability
- 27. December 15, 2022 Supplemental Response (exhibits thereto) to ODC's December 12, 2022 letter
- 28. February 13, 2023 Supplemental Response (exhibits thereto) to ODC's December 12, 2022 letter
- 29. JJPI's Record of Counseling Sessions during 2017-2018
- 30. Certificates of Completion
- 31. April 30, 2009 Communications with DOC staff regarding voluntarily tutoring inmates studying for their GED
- 32. SCI Camp Hill Library Record of Check-Outs from March 2009-October 2014
- 33. List of Novels read by the Book Club, which Petitioner formed at SCI Camp Hill
- 34. Short story entitled "The Loneliest Moon"
- B. ODC Exhibits, entered without objection and accepted at the 4/25/2023 hearing (H.T. 4/25/2023, Pg. 295.)
 - 1. PA Supreme Court Order issued June 24, 2009, re: issuance of a Rule to Show Cause to Petitioner
 - 2. PA Supreme Court Order issued October 7, 2009, re: imposition of temporary suspension
 - 3. Petition for Discipline filed 10/30/2009, re: 55 DB 2009
 - 4. Response to Petition for Discipline filed November 30, 2009
 - 5. Petition for Discipline filed May 6, 2011, re: 166 DB 2010
 - 6. Response to Petition for Discipline filed June 1, 2011

- 7. Disciplinary Board of PA Order issued May 25, 2011
- 8. Petitioner's letter to Secretary of the Board dated October 6, 2014, notifying anticipated release from prison on October 5, 2014
- 9. Statement of Resignation with attached exhibits filed November 2, 2014
- 10.PA Supreme Court Order issued December 10, 2014, re: disbarment on consent
- 11. Response to Petition for Reinstatement filed December 12. 2022
- 12. Response of Petitioner to the ODC's December 12, 2022 letter, filed December 15, 2022
- 13. Supplemental Response of Petitioner to the ODC's December 12, 2022 letter, filed February 13, 2023

IV. FINDINGS OF FACT

A. PETITIONER'S PERSONAL AND PROFESSIONAL HISTORY

- Petitioner was born in 1966 and was 56 years old at the time of the hearing.
 (Joint Stipulation at ¶1.)
- 2. Petitioner was admitted to the practice in the Commonwealth of Pennsylvania in 2000. As an undergraduate, Petitioner attended the University of Pennsylvania in Philadelphia and received a Bachelor of Arts degree in Economics and Psychology in May 1988. Petitioner then attended Santa Clara University School of Law in Santa Clara, California and received his Juris Doctor in May 1991. Petitioner was admitted to the California Bar and worked as a practicing attorney in California from 1991 until 1999. Following his move to Philadelphia and admission to the Pennsylvania Bar on March 22, 2000, Petitioner worked as a practicing attorney in Pennsylvania until 2008. (Joint Stipulation at ¶¶ 2, 3.)
- 3. Following his graduation from law school, Petitioner was admitted to the California Bar and worked as a practicing attorney in California from 1991 until 1999. (Joint Stipulation at ¶ 3.)

- 4. From 1991 through 2008, Petitioner was a practicing attorney in good standing in both California and Pennsylvania with no record of misconduct, as well as in the federal district and appellate courts to which he had been admitted in both California and Pennsylvania. (Joint Stipulation at ¶ 4.)
- 5. Petitioner was married to Ms. Mary Bossart Halfpenny from 1991-2008. The divorce became final and a decree of divorce was issued around July 2008. They have three children. (Joint Stipulation at ¶¶ 5,6.)

B. PETITIONER'S CRIMINAL CONDUCT, GUILTY PLEA, SENTENCING

- 6. On January 18, 2007, Ms. Halfpenny obtained a protection from abuse order ("PFA") against Petitioner prohibiting him from having unauthorized contact with Ms. Halfpenny. The PFA was valid through January 2010. (Joint Stipulation at ¶ 7.)
- 7. On July 22, 2008, Petitioner was charged with violating the PFA by making approximately 70 to 90 unauthorized telephone calls to Ms. Halfpenny over the course of a five-day time period between July 9, 2008 and July 14, 2008 in a criminal case captioned: *Commonwealth v. John Halfpenny*, MC-51-CR-0036787-2008. (Joint Stipulation at ¶ 8.)
- 8. Petitioner was charged with violating the PFA a second time after having unauthorized contact with Ms. Halfpenny on August 24, 2008 in a criminal case captioned: *Commonwealth v. John Halfpenny*, MC-51-CR-0048155-2008. These charges were filed on September 24, 2008, after Petitioner was charged in the matter described in the following paragraph. (Joint Stipulation at ¶ 9.)
 - 9. On September 14, 2008, Petitioner was arrested and charged with attempted

aggravated assault (which the prosecution withdrew on or about September 19, 2008), attempted burglary, criminal trespass, stalking, possessing an instrument of crime, terroristic threats, simple assault (which the prosecution withdrew on or about September 19, 2008), recklessly endangering another person (which the prosecution withdrew on or about September 19, 2008), violation of a protective order, and harassment in an incident in which Ms. Halfpenny was the complainant in a criminal case captioned: *Commonwealth v. John Halfpenny*, CP-51-CR-0011907-2008. (Joint Stipulation at ¶ 10.)

- 10. The facts underlying the charges for the above-referenced criminal case were that on the evening of September 14, 2008, Petitioner called his ex-wife's mother and told her that something would happen to all of them including his ex-wife. Petitioner then appeared in his ex-wife's backyard with a beige bag. He was observed fleeing the area and dropping the bag. In the bag, there was a roll of duct tape, an extension cord, a book of matches, a pair of leather gloves, a black scarf, and 13-inch kitchen knife. Petitioner's blood was found in several areas of the yard, on the outside of the house, and the surrounding patio area. (Joint Stipulation at ¶ 11.)
- 11. On December 5, 2008, Petitioner entered a consolidated guilty and no contest plea in all three of the above-referenced criminal cases to the following charges: attempted burglary (F1); criminal trespass (F2); harassment (M3); three counts of stalking (M3); three counts of contempt for violating a PFA order (M3); and possessing an instrument of crime (M1)(no contest plea). All other charges were withdrawn. (Joint Stipulation at ¶ 12.)
 - 12. On January 23, 2009, Judge Rose Marie DeFino-Nastasi sentenced Petitioner

on all charges to which he entered a plea and was convicted to a total combined sentence of 25 months to 50 months of incarceration, to be followed by a consecutive 17 years of probation. (Joint Stipulation at ¶ 14.)

- 13. On October 15, 2009, while incarcerated at SCI Camp Hill, Petitioner was arrested and charged with possession of child pornography and unlawful use of a communication facility for conduct that occurred on January 14, 2007 but was not reported to the police until March 25, 2009 in a criminal case captioned: *Commonwealth v. John Halfpenny*, CP-51-CR-0000170-2010. (Joint Stipulation at ¶ 18.)
- 14. The facts underlying the charges for the above-referenced case were that on January 14, 2007, Ms. Halfpenny discovered photographs depicting numerous images of child pornography in a guitar case belonging to Petitioner. In a subsequent letter to Ms. Halfpenny, Petitioner admitted to downloading the images from their home computer. Ms. Halfpenny did not report the incident to police until more than two years later on March 25, 2009, and Petitioner was subsequently charged. Petitioner was in custody serving the sentence imposed on him by Judge DeFino-Nastasi at the time of his arrest on this new charge. (Joint Stipulation at ¶ 19.)
- 15. On February 24, 2010, Petitioner pled guilty to possession of child pornography (F3) and unlawful use of a communication facility (F3) in the above-referenced criminal case. (Joint Stipulation at ¶ 20.)
- 16. On June 8, 2010, Judge Thomas Dempsey sentenced Petitioner in the above referenced criminal case on both charges to a total combined sentence of 5 months to 23 months of incarceration, to be followed by a consecutive 3-year period of probation. Judge

Dempsey further ordered that the sentence imposed in this case be served consecutively to the sentence imposed by Judge DeFino-Nastasi. (Joint Stipulation at ¶ 21.)

C. PETITIONER'S INCARCERATION AND PROBATION

- 17. Petitioner remained in custody and served a continuous period of confinement from September 14, 2008, until October 15, 2014, as a result of his arrest and criminal convictions. (Joint Stipulation at ¶ 29.)
- 18. On October 15, 2014, Petitioner was released from custody at State Correctional Institute-Camp Hill and placed on probation supervision. (Joint Stipulation at ¶ 30.)
- 19. On February 22, 2017, Petitioner's Probation Officer, Keion Cook, filed a petition with the court requesting Petitioner be granted early release from probation supervision in the criminal case in which he was sentenced by the Judge Dempsey (CP-51-CR-0000170-2010). (Joint Stipulation at ¶ 37.)
- 20. By Order dated March 9, 2017, Judge Frank Palumbo granted the petition for early release and terminated Petitioner's probation in the above-referenced criminal case. (Joint Stipulation at ¶ 38.)
- 21. On September 5, 2019, Petitioner filed a petition with the court requesting he be granted early release from probation supervision in the criminal case in which he was sentenced by Judge DeFino-Nastasi (CP-51-CR-0011907-2008). (Joint Stipulation at ¶ 39.)
- 22. By Order dated September 19, 2019, Judge DeFino-Nastasi granted the petition for early release and terminated Petitioner's probation in the above-referenced criminal case. Judge DeFino-Nastasi's order released Petitioner from probation 12 years early.

(Joint Stipulation at ¶ 40.)

23. Petitioner has not engaged in any unlawful activities since his release from custody on October 15, 2014. (Joint Stipulation at ¶ 41.)

D. PETITIONER'S REHABILITATION

- 24. While incarcerated pre-Sentencing at Curran-Fromhold Correctional Facility, 7901 State Road, Philadelphia, PA 19136, Petitioner voluntarily participated in the OPTIONS Program from in or about October 2008 through mid-January 2009, graduating in mid-January 2009. The OPTIONS Program provides substance-use disorder treatment to inmates in specialized housing units. (Petitioner Reinstatement Brief (PRB) ¶ 91).
- 25. While incarcerated at S.C.I. Camp Hill, in addition to participating in other treatment and rehabilitation programs, Petitioner participated in the Department of Corrections' Drug and Alcohol Out-Patient therapy and successfully completed the program in or about the late-fall of 2009 or early-winter of 2010. During his incarceration, Petitioner participated in voluntary A.A. meetings several times a week at S.C.I. Camp Hill. (PRB ¶ 92.)
- 26. While incarcerated, Petitioner worked full-time in the prison library, he formed a Book Club for inmates, tutored inmates to help them pass their GED. The DOC Education program recognized him for his "Dedication and Assistance in the Library Program. (Petitioner Post Hearing Brief (PPHB) ¶ ¶ 41, 46, 48.)
- 27. Upon his release from Camp Hill, Petitioner attended public Alcoholic Anonymous (A.A.) meetings. (PRB ¶ 93.)
 - 28. In or about mid-November 2014, approximately 3 to 4 weeks after his release

from Camp Hill, Petitioner commenced extensive psychological counseling with Harry Orenstein, Ph.D., a Clinical Psychologist, then based in Chestnut Hill. (PRB ¶ 94.)

29. During the summer of 2015, at the direction of the Honorable Dianne Thompson of the Philadelphia Family Court, Petitioner sought and obtained a psychological evaluation at the Joseph J. Peters Institute (JJPI) in Philadelphia, Pennsylvania. The clinical assessment was performed by Barry Zakireh, Ph.D., the Director of Forensic Programs at JJPI. Dr. Zakireh prepared a written "Summary of Forensic Psychosexual Evaluation," dated August 4, 2015. (PRB ¶ 95.)

30. Dr. Zakireh conclusions were as follows:

Altogether, analysis of all available information including collateral records, self-reports, and objective measure of sexual interests in the current evaluation do not indicate a significant preexisting or a distinctly predisposed pattern of sexual fantasies, urges, or interests in children. There is presently no evidence of a paraphilic disorder such as pedophilic disorder or a pattern of contacting children or minors for sexual purposes. His sexual offense does not meet the criteria of a paraphilic disorder and does not indicate deviant sexual interests though his behavior was certainly a violation of social norms. There is no evidence that his behaviors were associated with pathological or coercive sexual behavior. (PRB ¶ 98.)

- 31. Petitioner was engaged in weekly, and later bi-monthly, one-on-one therapy sessions with clinical psychologist Harry Orenstein, Ph.D, before, during and after the time of Dr. Zakireh's evaluation. Petitioner was involved in counseling with Dr. Orenstein from in or about November 2014 until in or about January 2016, at which time Petitioner was preparing to move to York, Pennsylvania. (PRB ¶ 100.)
- 32. Subsequently, from in or about June 2017 through in or about October 2017, Petitioner resumed weekly, and then bi-monthly counseling sessions with Dr. Orenstein. Thereafter, from in or about October 2017 through in or about April 2018, Petitioner

engaged in one-on-one general psychological counseling at JJPI. (PRB ¶ 101.)

- 33. Petitioner has engaged in a number of civic and charitable endeavors, including raising \$50,000 for the Leukemia and Lymphoma Society, speaking publicly about his experiences including alcoholism, subsequent rehabilitation, and recovery, being a guest speaker at school to discuss the play and movie, 12 Angry Men, and volunteered to be interviewed via telephone for Independent Study High School Senior Project where Petitioner spoke about his experience in the law, then as a criminal defendant and inmate, and then as a paralegal. (PRB ¶¶ 108, 110, 111).
- 34. In May 2018, Petitioner commenced employment as a paralegal with Holt Law, a criminal defense and family law firm located in Harrisburg, Pennsylvania. Petitioner worked for Mr. Holt until April 2021. (PRB ¶ 104.)
- 35. In February 2022, Petitioner commenced employment as a paralegal with Shreve Law Group, a criminal law and DUI law firm located in Harrisburg, Pennsylvania. Petitioner works for Shreve Law Group currently. (PRB ¶ 41.)

E. PETITIONER'S WITNESSES (in addition to Petitioner)

i. James K. Gumberg, Esquire

- 36. James K. Gumberg, Esquire is a licensed attorney who practices in California, mainly in labor and employment law. Petitioner and Mr. Gumberg were roommates in law school. (Hearing Transcript (H.T.), 4/25/23, Pg. 72.)
- 37. Mr. Gumberg was aware of Petitioner's criminal actions, his imprisonment, and his disbarment. He credibly testified that, "If John is readmitted and I need a lawyer, I would be willing to hire him." (H.T., 4/25/23, Pg. 95.)

- 38. Mr. Gumberg thought that his experiences would make him a better lawyer, more understanding, and more attuned to his clients' interests if he were readmitted. (H.T., 4/25/23, Pg. 94.)
- 39. Mr. Gumberg credibly testified that the Petitioner's crime relating to the pornography charge was a "one-off incident" and affected by his substance use. He also attributed his criminal behavior related to violating the PFA as a consequence of his issues with drinking. (H.T., 4/25/23, Pg. 102, 103, 105.)
- 40. Mr Gumberg credibly testified that the Petitioner's readmission, after 15 years of extensive rehabilitation, would not be detrimental to the Bar, the administration of justice or the public interest. (H.T., 4/25/23, Pgs. 91-97)

ii. Lizhu Zhong

- 41. Lizhu Zhong was the Head Librarian at SCI Camp Hill from 1995 to 2019. She met Petitioner while he was incarcerated at SCI Camp Hill. Petitioner worked at the prison library while serving his sentence. (H.T., 4/25/23, Pgs. 116-118.)
- 42. Ms. Zhong credibly testified that Petitioner tutored inmates to help them obtain their GEDs. (H.T., 4/25/23, Pgs. 120-122.)
- 43. Ms. Zhong noted that Petitioner was very serious about working in the library, how willing he was to do an extra job, to help people, and willing to talk to those in need. (H.T., 4/25/23, Pg. 126.)
- 44. Ms. Zhong testified that Petitioner had the DOC's support for parole, but Petitioner's ex-wife opposed it, so it was denied. (H.T., 4/25/23, Pgs. 131-132.)
 - 45. Ms. Zhong commended Petitioner's candor in discussing and taking responsibility

for his misconduct and rehabilitation. (H.T., 4/25/23, Pgs. 123-125.)

46. Ms. Zhong credibly testified that the Petitioner's readmission, after 15 years of extensive rehabilitation, would not be detrimental to the Bar, the administration of justice or the public interest. (H.T., 4/25/23, Pgs. 138-141.)

iii. Paul O'Hara

- 47. Paul O'Hara is a longtime friend of the Petitioner. Mr. O'Hara has known the Petitioner for over 40 years. (H.T., 4/25/23, Pg. 144.)
- 48. Mr. O'Hara was aware of Petitioner's criminal actions, his incarceration, and his disbarment. Mr. O'Hara vouched for Petitioner's rehabilitation. Mr. O'Hara credibly testified that none of Petitioner's crimes involved the Petitioner being an attorney, but rather were borne out of a difficult divorce situation. Mr. O'Hara also does not believe that Petitioner was intentionally looking for child pornography. Further, he mentioned that Petitioner had a love for the law and loved practicing law. (H.T., 4/25/23, Pgs. 146, 170, 172.)
- 49. Mr. O'Hara testified that he thought, if he was readmitted, the Petitioner's experiences would make him a better attorney and more understanding of his clients, as Mr. O'Hara mentioned, "I think he's had an opportunity to see things from a different side and he's come out of this with a real passion." (H.T., 4/25/23, Pg. 164.)
- 50. Mr. O'Hara credibly testified because of Petitioner's efforts, they were able to raise almost \$50,000 for the Leukemia and Lymphoma Society. Mr. O'Hara also mentioned that Petitioner helped his daughter by being a guest speaker for a play they were studying. Mr. O'Hara's daughter also asked Petitioner if he could help another

student with a project, to which Petitioner obliged. (H.T., 4/25/23, Pg. 158.)

51. Mr. O'Hara testified that the Petitioner's readmission, after 15 years of extensive rehabilitation, would not be detrimental to the Bar, the administration of justice or the public interest. (H.T., 4/25/23, Pgs. 163-166.)

iv. Harry Orenstein, Ph.D.

- 52. Dr. Orenstein was Petitioner's treating psychologist. Petitioner engaged in extensive Psychotherapy with Dr. Orenstein from December 2014 through June 2017. Dr. Orenstein credibly testified Petitioner was not in treatment because it was mandated but rather that Petitioner enjoyed being in treatment. (H.T., 4/25/23, Pg. 189.)
- 53. Dr. Orenstein attested to Petitioner's qualitative rehabilitation. Dr. Orenstein reviewed the Forensic Psychosexual Assessment of Dr. Zakireh and agreed with his findings and conclusions. (H.T., 4/25/23, Pgs. 196-197.)
- 54. Dr. Orenstein prepared a Clinical Assessment of the Petitioner in April 2023. In the report, he noted "[Petitioner] explored the antecedents to the behavior that caused him to be locked up, which brought about his drinking to excess and which were related to his use of poor judgment (overall). He was a mature and responsive client, used the time well, and was prepared to discuss psychological issues." at 1. Dr. Orenstein noted, "The treatment was consistently productive." He also stated, "We reached a point [in 2017] where he could be comfortably terminated from treatment." Id. at 2. During his testimony, Dr. Orenstein opined that "no psychiatric diagnosis was appropriate at his time." (P-19 (A); H.T., 4/25/23, Pgs. 194-195.)
 - 55. Dr. Orenstein credibly testified that the Petitioner's readmission, after 15 years of

extensive rehabilitation, would not be detrimental to the Bar, the administration of justice or the public interest. (H.T., 4/25/23, Pgs. 198-202.)

v. William Shreve, Esquire

- 56. William Shreve, Esquire is a licensed attorney in Pennsylvania. His practice is in Dauphin County, and his primary area of practice is criminal defense with some family law. He is the Petitioner's current employer, and the Petitioner works a paralegal in the office. (H.T., 4/25/23, Pgs. 219-220.)
- 57. Mr. Shreve is aware of Petitioner's criminal actions, incarceration, and disbarment. In his testimony, Mr. Shreve credibly vouched for the Petitioner's qualitative rehabilitation and fitness to be readmitted to the bar. (H.T., 4/25/23, Pgs. 230-231.)
- 58. Mr. Shreve praised Petitioner's knowledge and skill of the law, his good character, adherence to ethics, and moral fitness to practice. (H.T., 4/25/23, Pgs. 230-231.)
- 59. Mr. Shreve credibly spoke of Petitioner's candor and transparency in discussing his misconduct and subsequent rehabilitation and his ability to take responsibility for his actions. He credibly stated, "What won me over was the candor [of the Petitioner]." (H.T., 4/25/23, Pgs. 241-242.)
- 60. Mr. Shreve spoke of "the amount of clients that have been appreciative of [the] connection with them on a personal level." (H.T., 4/25/23, Pgs. 226.)
- 61. Mr. Shreve credibly testified that the Petitioner's readmission, after 15 years of extensive rehabilitation, would not be detrimental to the Bar, the administration of justice or the public interest. (H.T., 4/25/23, Pgs. 230-231.)

vi. John P. Halfpenny (Petitioner)

- 62. Petitioner appeared at the April 25, 2023 hearing, represented himself, and testified on his own behalf.
- 63. The Hearing Committee found Petitioner to be a credible witness. The Hearing Committee determined that he was open and honest regarding the crimes that led to his disbarment, expressed genuine remorse for his victims, and was candid regarding his treatment and rehabilitative efforts.
- 64. At the Reinstatement Hearing, Petitioner candidly and transparently testified to his 15 years of rehabilitation; his sterility; his alcoholism and sobriety; the nature and circumstances of his crimes; the breakdown of his marriage; his past struggles with depression and PTSD; his experiences in prison; his early release from probation; his continuing and ongoing efforts at personal growth; his experiences as a paralegal; and his plans and hopes for the future. (H.T., 4/25/23, Pgs. 246-291.)
- 65. Petitioner feels that alcoholism was the primary factor in his misconduct. He provided two expert opinions on this finding with the reports of Dr. Zakireh and Dr. Orenstein. (H.T., 4/25/23, Pgs. 272-273.)
- 66. In his testimony, Petitioner's summarized much of what the previous witnesses had said. (H.T., 4/25/23, Pgs. 245-287.)
- 67. Petitioner mentioned that he was deliberate in waiting 15 years to ask for reinstatement to be able to demonstrate true and actual rehabilitation. He also stated that his greatest achievement was gaining his sobriety. (H.T., 4/25/23, Pg. 289.)

F. MISCELLANEOUS FINDINGS OF FACT

- 68. ODC neither opposed the Petition nor filed proposed findings of fact or conclusions of law but did have "potential areas of concern." (Joint Stipulation at ¶ 45, ODC Exhibit 11).
- 69. On December 12, 2022, ODC filed a Response to the Petition for Reinstatement with the Board in which ODC raised "potential areas of concern" with Petitioner's reinstatement petition and reserved its right to review the testimony and evidence Petitioner presented at the hearing before taking a final position on reinstatement. (Joint Stipulation at ¶ 45, ODC Exhibit 11)
- 70. On December 15, 2022, Petitioner filed a Response with the Board and provided information and documentation to address the concerns raised in ODC's December 12, 2022 letter. (Joint Stipulation at ¶ 46, ODC Exhibit 12)
- 71. On February 13, 2023, Petitioner filed a Supplemental Response with the Board and provided additional information and documentation to address the concerns raised in ODC's December 12, 2022 letter. (Joint Stipulation at ¶ 47, ODC Exhibit 13)
- 72. On or about January 17, 2023, Petitioner entered into a payment agreement with the I.R.S. to make monthly payments on his then-outstanding balance of approximately \$6,500.00 owed in personal income taxes. Petitioner began making monthly payments pursuant to the agreement on or about February 7, 2023. (Joint Stipulation at ¶ 49.)
 - 73. On or about February 9, 2023, Petitioner satisfied his obligation to the

Pennsylvania Department of Revenue and paid off, in full, his outstanding balance of \$720.99 owed in personal income taxes. Petitioner has no outstanding obligations to the Pennsylvania Department of Revenue. (Joint Stipulation at ¶ 50.)

- 74. Petitioner has not sought reinstatement in any of the other jurisdictions where he was reciprocally disbarred. (Joint Stipulation at ¶ 34.)
- 75. Petitioner has not engaged in the practice of law while he has been disbarred. (Joint Stipulation at ¶ 35.)
- 76. Petitioner had no other history of discipline prior to his involvement in this disciplinary matter. (Joint Stipulation at ¶ 36.)

V. CONCLUSIONS OF LAW

- 77. Petitioner made timely reports of each of his convictions as required by Pa.R.D.E 214 (a) and submitted a Voluntary Resignation Statement to the Court pursuant to Pa.R.D.E. 215 (a) upon his release from incarceration. (Joint Stipulation at ¶¶ 13, 22, 31.)
- 1. The misconduct for which Petitioner was disbarred is not so egregious as to preclude consideration of his Petition for Reinstatement. *Office of Disciplinary Counsel v. John Keller, 506 A.2d 872 (Pa. 1986).*
- 2. Petitioner met his burden of proof by clear and convincing evidence that a sufficient period of time has passed since the misconduct, during which he engaged in qualitative rehabilitation. *In the Matter of Jerome J. Verlin*, 731 A.2d 600 (Pa. 1999).
- 3. Petitioner met his burden of proof by clear and convincing evidence that he has the moral qualifications, competency and learning in the law required for admission to practice law in the Commonwealth of Pennsylvania. Rule 218 (c)(3), Pa.R.D.E.

4. Petitioner met his burden of proof by clear and convincing evidence that his resumption of the practice of law in the Commonwealth of Pennsylvania will be neither detrimental to the integrity and standing of the bar or the administration of justice nor subversive of the public interest. Rule 218 (c)(3), Pa.R.D.E.

VI. DISCUSSION

Petitioner seeks reinstatement to the Bar of the Supreme Court of Pennsylvania following his disbarment on consent on December 10, 2014, retroactive to October 7, 2009, the date of his temporary suspension.

To obtain reinstatement, Petitioner must prove, by clear and convincing evidence, that he is morally qualified, competent, and learned in the law and that his resumption of the practice of law will neither be detrimental to the integrity and standing of the Bar nor the administration of justice, nor subversive to the public interest. Pa.R.D.E. 218(c)(3); In re Verlin, 731 A. 2d 600, 602 (Pa. 1999). This standard is still applicable even when, as here, ODC does not oppose reinstatement. A reinstatement proceeding is a "searching inquiry into a lawyer's present professional and moral fitness to resume the practice of law." Philadelphia Newspapers, Inc. v. Disciplinary Bd. Of Supreme Court, 363 A.2d 770, 780 (Pa. 1976). The Hearing Committee's focus is "the nature and extent of the rehabilitative efforts made since the time the sanctions were imposed, and the degree of success achieved in the rehabilitative process..." Id. at 781. Our inquiry is "not solely the transgressions which gave rise to the lawyer's suspension or disbarment..." Id. at 780-81.

Petitioner's alcoholism was a primary factor in his conduct that led to his guilty

pleas, subsequent incarceration, and suspension from the Bar on consent. In ODC v. Braun, 520 Pa. 157, 161 (1989), the Supreme Court held that a causal relationship between the misconduct and a disorder is "a mitigating factor." Moreover, the Supreme Court has stated that "[f]or alcohol abuse to be considered a mitigating factor ..., respondent must establish ... [it] was a causal factor in his misconduct." ODC v. Monsour, 701 A.2d 556 (1997). As Dr. Zakireh stated, Petitioner's criminal acts were "associated with acute mood disorder, poor regulation of affect and impulses, corresponding alcohol abuse, concomitant instability and discord in his interpersonal environment and social functioning ... at that juncture in his life." (P-18 at 2). Dr. Zakireh noted, "Mr. Halfpenny suffered from an alcohol addiction prior to his incarceration ...and alcohol abuse appears to be a major precipitant [to] ... his offenses." (P-18 at 2). Dr. Zakireh likewise diagnosed "acute mood disorder, poor regulation of affect and impulses," id., as contributing factors.

To date, Petitioner has spent many years engaging in whatever treatment necessary to fully understand the origins of his conduct. Several witnesses credibly testified to his commitment to rehabilitation. He was engaged in therapy pre-incarceration and continued to treat post-incarceration to focus on repairing relationships and reinforcing his progress. Witnesses testified that they would not hesitate to hire or refer work to Petitioner as a lawyer. Every witness credibly testified that Petitioner candidly shared with them his past misconduct. All equally shared their view that Petitioner is a person of high moral integrity. They repeatedly called him trustworthy and praised his commitment to rehabilitation. No witness had any hesitation recommending Petitioner's Petition for Reinstatement.

The record in its entirety supports the conclusion that Petitioner is morally qualified, competent, and learned in the law. Petitioner acknowledged his addiction and his criminal misconduct. Petitioner never minimized nor attempted to justify his actions. Petitioner clearly expressed sincere remorse and regret. His reinstatement questionnaire, his direct testimony, and his answers responsive to questions from the Hearing Committee members were candid, credible and forthcoming. The witness testimony, as well as the 19-character letters submitted from individuals who have known the Petitioner for many years, before and after his offense, appeared credible and persuasive and confirmed that Petitioner is well-regarded and respected. Petitioner's character references represent a broad cross-section of the public, including two former Department of Corrections (DOC) officials, a teacher, five small business owners, a university professor, a Deacon in the Catholic Church, a US Navy Veteran, a Chemical Engineer, a Steamfitter, the proprietor of an 80-child daycare, a truck driver, and a health-care professional.

The record supports the conclusion that Petitioner's resumption of the practice of law will be neither detrimental to the integrity and standing of the Bar nor the administration of justice nor subversive of the public interest. A diverse group of witnesses from different aspects of Petitioner's daily life (i.e. professional, treatment, community) testified in support of Petitioner's reinstatement. All witnesses credibly testified and provided positive insights into the Petitioner's rehabilitated character and competence.

The Supreme Court has previously addressed the reinstatement of lawyers who were disbarred from the practice of law due to a criminal conviction. Some examples are listed below:

- In the Matter of Stephen Greg Doherty, No. 69 DB 2010 (D. Bd. Rpt. 9/13/2017)
 (S. Ct. Order 10/27/2017) It was determined that criminal convictions for mail fraud, wire fraud, bankruptcy fraud, and money laundering is not so egregious that it precluded consideration of reinstatement.
- In the Matter of Sandra Couch Collins, No. 141 DB 1996 (D. Bd. Rpt. 3/14/2022) (S. Ct. Order 5/4/2022) It was determined that criminal convictions for burglary, criminal trespass, stalking related to kidnapping her daughter during a child custody dispute is not so egregious that it precluded consideration of reinstatement).
- In the Matter of Corey Adam Leshner, No. 159 DB 2013 (D. Bd. Rpt. 11/10/2020) (S. Ct. Order 12/16/2020) It was determined that petitioner who had been disbarred on consent would be reinstated. It was held that a conviction for conspiracy to commit wire fraud as a co-conspirator in the Scarfo organized crime family before, during, and after law school was not so egregious to bar reinstatement.

The Disciplinary Board has also addressed the passage of time from when a lawyer was disbarred to their Petition for reinstatement. Some examples are:

- In re William James Perrone, 777 A.2d 413 (Pa. 2001) Once Petitioner has met the Keller threshold, it must be considered whether Petitioner has met his burden of proving by clear and satisfactory evidence that his resumption of the practice of law would not be detrimental to the profession, the courts, or the public.
- Verlin at 602 Petitioner must demonstrate that a sufficient period of time has

passed since his misconduct, during which engaged in qualitative rehabilitation efforts that were sufficient to dissipate the detrimental impact of his conduct on the public trust.

- In the Matter of Peter Joseph Payne, Jr. No. 197 DB 2012 (D. Bd. Rpt. 6/3/2017)
 (S. Ct. Order 10/27/2017) (reinstatement from disbarment after six years, misappropriation of \$500,000).
- In the Matter of Mark Allen Kovler, 172 DB 2002 (D. Bd. Rpt. 5/15/2009) (S. Ct. Order 7/24/2009) (reinstatement from disbarment after five years and eleven months; fraudulent conveyance of home to insulate from judgment in a pending malpractice action).

This Hearing Committee believes that the evidence presented by Petitioner is at least as compelling as those in other cases where Petitions for Reinstatement have been granted and the findings in the above Disciplinary Board cases support the granting of the Petitioner's Reinstatement Petition here.

Accordingly, we find that Petitioner has presented clear and convincing evidence that his misconduct was not "so egregious" as to bar reinstatement and that he has engaged in a sufficient period of rehabilitation. Furthermore, we that Petitioner has the moral qualifications and competency for reinstatement to the bar, and that his resumption of the practice of law within the Commonwealth will be neither detrimental to the integrity and standing of the bar or the administration of justice nor subversive of the public interest.

VIII. RECOMMENDATION

The Hearing Committee recommends that the Petition for Reinstatement be granted.

Respectfully submitted,

/s/ Jeffrey A. Krawitz

Jeffrey A. Krawitz, Esq., Chair

/s/ Lauren A. Hughes

Lauren A. Hughes, Esq., Member

/s/ Christina M. Finello

Christina M. Finello, Esq., Member

Dated: August 14, 2023