

ORIGINAL

Louisiana Attorney Disciplinary Board

FILED by: *Donna P. Burgess*

Docket#

Filed-On

18-DB-003

11/14/2018

LOUISIANA ATTORNEY DISCIPLINARY BOARD

IN RE: ATTLAH D. BURRELL

DOCKET NO. 18-DB-003

REPORT OF THE HEARING COMMITTEE # 27

This is a proceeding based upon a filing of a petition and application for reinstatement to the practice of law following the suspension of Attlah D. Burrell, Louisiana Bar Roll Number 24764.

INTRODUCTION AND PROCEDURAL HISTORY

On March 4, 2011, pursuant to a petition for consent discipline, the Louisiana Supreme Court suspended Ms. Burrell for three years, retroactive to February 20, 2008, the date of her interim suspension. *In re Burrell*, 2011-B-0242 (La. 3/4/11), 56 So.3d 947.

Ms. Burrell filed a petition and application for reinstatement to the practice of law on January 2, 2018. On March 5, 2018, the Office of Disciplinary Counsel ("ODC") filed its response to Ms. Burrell's petition. ODC filed an amended response on March 9, 2018. The hearing was held on July 12, 2018. Dele Akintade Adebamiji, appeared on behalf of Ms. Burrell. Chief Disciplinary Counsel Charles B. Plattmier appeared on behalf of ODC.

RESPONSE OF ODC

ODC takes no position regarding Ms. Burrell's petition for reinstatement, which requires a hearing of the matter pursuant to Louisiana Supreme Court Rule XIX, §24(F).

EVIDENCE

The Respondent, Ms. Burrell, testified on her own behalf. Eleanore Collins and Hazel Knighton also testified as favorable character witnesses for Ms. Burrell. Counsel stipulated that there were three other character witnesses who, if they had been called to testify, their testimony would have been similarly favorable about Ms. Burrell.

The following exhibits were admitted without objection:

Ex. 11 Client Assistance Fund Certificate indicating that there were no payments made by the Client Assistance Fund in the underlying disciplinary action

No. 1A Petition for reinstatement

No. 1 Certified Return Receipt

No. 6 Character witness letters

No. 7 MCLE Transcript

No. 8. Request for Exemption from Dues and Disciplinary Action

No. 9A. Promissory Note

No. 9B. Cost Statement

No. 10. Request for Exemption form LADB Periodic Assessment for 2017-2018

At the hearing, the record was held open for Ms. Burrell to submit proof of publication in the Louisiana Bar Journal about her request for reinstatement. The advertisement printed in the Feb./Mar. 2014 Bar Journal was filed into the record on July 16, 2018.

LAW AND FINDINGS OF FACT

Reinstatement following suspension is governed by Louisiana Supreme Court Rule XIX, Section 24. Section 24(E) establishes the substantive criteria for reinstatement, which are as follows:

- E1. “The lawyer has fully complied with the terms and conditions of all prior discipline orders, except to the extent that they are abated under section 25.”**
- E2. “The lawyer has not engaged nor attempted to engage in the unauthorized practice of law during the period of suspension or disbarment.”**
- E3. “If the lawyer was suffering under a physical or mental disability or infirmity at the time of the suspension or disbarment, including alcohol or other drug abuse, the**

disability or infirmity has been removed. Where alcohol or other drug abuse was a causative factor in the lawyer's misconduct, the lawyer shall not be reinstated or readmitted unless:

- a) the lawyer has pursued appropriate rehabilitative treatment;
- b) the lawyer has abstained from the use of alcohol or other drugs for at least one year; and
- c) the lawyer is likely to continue to abstain from alcohol or other drugs."

- E4. "The lawyer recognizes the wrongfulness and seriousness of his conduct for which the lawyer was suspended or disbarred."
- E5. "The lawyer has not engaged in any other professional misconduct since suspension or disbarment."
- E6. "Notwithstanding the conduct for which the lawyer was disciplined, the lawyer has the requisite, honesty and integrity to practice law."
- E7. "The lawyer has kept informed about recent developments in the law and is competent to practice and has satisfied MCLE requirements for the year of reinstatement or reinstatement."
- E8. "The lawyer has paid to the Louisiana State Bar Association currently owed bar dues."
- E9. "The lawyer has paid all filing fees owed to the Clerk of Court and all disciplinary costs to the Disciplinary Board."
- E10. "The lawyer has paid to the Disciplinary Board currently owed disciplinary administration and enforcement fees required under Section 8 (A) of this rule and has filed the registration statement required under Section 8 (c) of this rule."
- E11. "The lawyer shall obtain a certification from the Client Assistance Fund that no payments have been made by the Fund to any of the lawyer's clients. To the extent that Client Assistance Funds have been paid to qualifying clients, the lawyer shall obtain a certification from the Fund that the Fund has been reimbursed in its entirety, or alternatively, that a payment plan is in effect which will result in reimbursement to the Fund."

RECOMMENDATION

Ms. Burrell was suspended from the practice of law as the result of a consent submission for a three-year suspension which was made retroactive. Respondent was eligible to apply for reinstatement approximately seven years ago. Her suspension came about because of her failure to oversee the actions of a suspended lawyer, Mr. Nolan Hammond, who was working for her as a paralegal, but ultimately held himself out to the public to be a lawyer. Ms. Burrell is to be commended for her community and civic activities. She has a most sincere demeanor and seems passionate about helping others, which she testified that she did throughout the time of her legal practice and during her suspension. Ms. Burrell is very active in community service and provides volunteer service in through her literacy work, her work with convalescents and juveniles, and by speaking engagements and ministry work.

The Committee finds that Ms. Burrell has satisfactorily completed the requirements of Rule XIX, Section 24. Section 24(E)1-7 and E11. Ms. Burrell has complied with the terms of her suspension (E1), and she has not engaged in the unauthorized practice of law during her suspension (E2). Ms. Burrell recognizes the seriousness of the conduct and the wrongfulness of the conduct for which she was suspended (E4). The Committee believes that Ms. Burrell has complied with her disciplinary sanctions, and that she understands her past errors. Ms. Burrell has not engaged in any misconduct since her suspension, (E5) and Ms. Burrell exhibits the requisite honesty and integrity to practice law, all of which was shown by not only Ms. Burrell's testimony, but also from the testimony of her colleagues and character witnesses, Ms. Collins and Knighton.(E6) Concerning the requirement of Section 24 (E7), Ms. Burrell has satisfied the MCLE requirements for the year 2018 and 2017, and in fact, she has obtained more than the mandatory 12 hours of MCLE required of a practicing lawyer for the years 2018 and 2017. However, her CLE attendance during her suspension was both limited and sporadic, and she has

been completely removed from the practice of law for over ten years, which means that she may have some difficulty with being able to re-enter the practice with knowledge of present law and may be hindered by having to re-learn or become reacquainted with the fundamentals of practicing law and recent developments in the law.

Concerning the financial requirements of Section 24(E), Ms. Burrell will be required to make the payments of Section 24 (E8) and (E9) when her reinstatement request is granted. She has been making regular monthly payments towards the Section 24(E10) payment for the past seven years, although it is not completely paid as of this date. Ms. Burrell obtained the required certification from the Client Assistance Fund that the fund has not made any payments resulting from these disciplinary proceedings nor has any claim been made against her for client funds. (E11). Additionally, the record was left open for Ms. Burrell to provide proof of publishing her request to be reinstated in the Louisiana Bar Journal, and she did provide that proof of having the reinstatement contained in the Louisiana Bar Journal in 2014. The Committee has not received any notification of objection to the reinstatement.

Ms. Burrell submitted payment for the bar association dues she would owe to the Louisiana State Bar Association, but her payment was returned pending disposition of this matter. It is the Committee's understanding that those dues will be payable upon her reinstatement. (E8) Ms. Burrell filed a request for waiver of the disciplinary assessment that is paid when the dues are paid, but that request was denied. The Committee understands that those dues will be owed at the time her reinstatement to practice law is granted. (E9) Therefore, while Ms. Burrell has not yet paid these dues, that fact does not negate her reinstatement since the dues are not yet owed. Ms. Burrell requested a waiver of the \$500.00 administrative fee owed as an advance deposit for these proceedings, and the disposition of that wavier has not yet been

determined. Ms. Burrell also submitted evidence that she has been regularly paying \$50.00 monthly for approximately seven years towards the costs resulting from the prior disciplinary proceedings pursuant to a promissory note, and she is current on those payments. (E10) The Committee has no reason to doubt that she would continue to make those periodic payments until her debt is paid in full. However, Ms. Burrell did testify concerning her financial hardships due to her husband's death and her inability to obtain paying employment. She currently receives VA benefits resulting from her husband's death. She works as a staff minister and is paid solely by donations from her church community. The Committee is of the opinion that if Ms. Burrell had greater income that she would pay the amounts owed to the LSBA.

The Committee finds that Ms. Burrell has met her burden of proof concerning the substantive criteria for reinstatement, excluding the financial criteria that have been outlined above and that the Committee understands will not be due until reinstatement is granted. However, the Committee has serious concerns about Ms. Burrell's plan to re-enter the practice of law in Louisiana while living in Texas. She testified that it is her intention to work in Houston, but that she will practice Louisiana law with a Texas law firm that handles Louisiana legal work. She also intends to apply for a Texas law license and hopes to learn Texas law while working in a Texas law firm. As of the date of the hearing she did not provide any specific firms or lawyers with which she could work nor did she tell the Committee the name of where she might apply for work if her request for reinstatement was granted. But, she did testify that she was not opposed to supervision of a mentoring lawyer. The Committee has concerns about the practicality of Ms. Burrell's plan to live in Texas and practice Louisiana law. Indeed, the Committee is also concerned that Ms. Burrell may be placing herself in the situation where she could be practicing law in Texas without a Texas license.

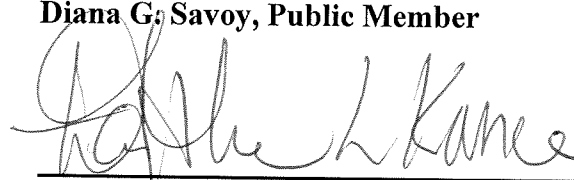
Due to its concerns, the Committee feels that Ms. Burrell's readmission must be conditioned upon her being supervised by mentoring lawyer who is in good standing and is licensed to practice law in Louisiana, with that supervision to last for a period of for two years. Additionally, the Committee recommends that Ms. Burrell's readmission be conditioned on her successful completion of 8 hours of continuing legal education seminars that are designated for new lawyers and/or small firm and solo practitioners by the LSBA. The Committee believes that Ms. Burrell should enter into a payment plan for the LSBA dues, disciplinary assessments and disciplinary fees that will be due upon her reinstatement. The Committee recommends a review of Ms. Burrell's compliance with the terms and conditions of the reinstatement every three (3) months until the amounts owed are paid in full and the expiration of the supervisory period.

This opinion is unanimous and has been reviewed by each committee member, who fully concur and who have authorized the Committee Chair to sign on their behalf.

Baton Rouge, Louisiana, this 14th day of November, 2018.

**Louisiana Attorney Disciplinary Board
Hearing Committee # 27**

**Edythe L. Koonce, Committee Chair
Charles S. McCowan, Jr., Lawyer Member
Diana G. Savoy, Public Member**



**BY: Edythe L. Koonce, Committee Chair
FOR THE COMMITTEE**