

ORIGINAL

Louisiana Attorney Disciplinary Board

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**LOUISIANA ATTORNEY DISCIPLINARY BOARD**

**IN RE: STEPHEN J. HOLLIDAY**

**DOCKET NO. 18-DB-053**

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**REPORT AND RECOMMENDATION**

**OF HEARING COMMITTEE # 15**

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This is a proceeding based upon a filing of a petition and application for reinstatement to the practice of law following the suspension of Stephen J. Holliday, Louisiana Bar Roll Number 23496.

**INTRODUCTION AND PROCEDURAL HISTORY**

On June 26, 2009, the Louisiana Supreme Court suspended Mr. Holliday from the practice of law for three years. *In re Holliday*, 2009-0116 (La. 6/26/2009), 15 So.3d 82. Prior to seeking reinstatement from the three-year suspension, Mr. Holliday was suspended from the practice of law for one year for unrelated misconduct. *In re Holliday*, 2016-0686 (La. 5/27/2016), 193 So.3d 124.

Mr. Holliday filed a petition and application for reinstatement to the practice of law on August 3, 2018. On October 5, 2018, the Office of Disciplinary Counsel ("ODC") filed its response to the petition. The hearing was held on December 18, 2018. Carey R. Holliday, appeared on behalf of Mr. Holliday. Chief Disciplinary Counsel Charles B. Plattsmier appeared on behalf of ODC.

**RESPONSE OF ODC**

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

## **EVIDENCE**

ODC stipulated that Applicant complied with the application process (including necessary attachments), advertising requirements, payment of all required dues, assessments and costs, and that there is no evidence that the Client Assistance Fund paid any funds on his behalf.

The testimony presented at the hearing consisted of several witnesses, including Applicant Witness testimony is summarized below.

1. J.E. “Buddy” Stockwell, III is the Executive Director of the Louisiana Judges and Lawyer’s Assistance Program (JLAP). JLAP is a 501c(3) non-profit corporation owned by the Louisiana Bar Association. The primary function of JLAP is two-fold: 1) to provide confidential assistance to judges, lawyers, law students and their families suffering from substance abuse or mental health disorders; and 2) to assist the Office of Disciplinary Counsel or Committee on Bar Admissions in determining one’s fitness to practice law in Louisiana when there are questions about substance abuse and/or mental health issues. In this regard, JLAP may offer evaluation and/or monitoring to assist in establishing one’s fitness to practice law.

Mr. Stockwell reviewed records including LAP (Lawyer’s Assistance Program and predecessor to JLAP) and current JLAP records involving Applicant. The LAP records indicated Applicant participated in an assessment by Palmetto Addiction Recovery Program in 2006. Palmetto facility reports Applicant was diagnosed with “alcohol abuse and also rule out narcissistic personality disorder.” It was recommended at that time he enter a diagnostic monitoring contract. A contract was “perfected” and sent to a monitor for the purpose of having Applicant execute the contract. Applicant did not participate in the recommended diagnostic monitoring contract at that time.

Applicant contacted Mr. Stockwell again in March 2013, expressing an interest in the JLAP program. Mr. Stockwell indicated that a new assessment would be necessary given the lapse of time between the 2006 assessment and the revived interest in the program. Although there is some minor discrepancy in the testimony, it appears that Applicant did not enter the recommended program in 2013 or 2006.

It appears that JLAP next encountered Applicant on December 18, 2017, when a JLAP director “did a new intake with him.” Applicant was given a list of facilities for assessment purposes. Applicant completed the new three-day “full blown” evaluation on July 18, 2018. He was diagnosed with “alcohol use disorder, mild.” According to Mr. Stockwell, the 2006 diagnosis of “alcohol abuse” and 2018 diagnosis of “alcohol use disorder, mild” are the same thing. The 2018 report also recommends considering narcissistic traits. The overall recommendation, just as in 2006, was that Applicant enter into a diagnostic monitoring contract.

Applicant entered into a two-year diagnostic monitoring contract on October 3, 2018. At the time of the hearing of this matter on December 18, 2018, Applicant had been subjected to six (6) random drug/alcohol screens. Two diagnostic reports had been issued by the time of the hearing, both were “favorable.”

The current JLAP monitoring contract requires consent and voluntary participation in random drug and alcohol screening. Applicant is not required to attend Alcoholic Anonymous (AA) or similar meetings or “lawyer support” meetings. He does meet a JLAP monitor on a monthly basis and licensed professional counselors are assigned to his case. He is also required to contact JLAP personnel before he takes any prescription medication. Applicant is not currently suffering from the previously diagnosed substance abuse disorder.

According to Mr. Stowell: “He’s performing well under the contract. Feedback from his JLAP monitoring is good. His attitude is good. His performance is good. So as far as we’re concerned, and based on the recommendation of Pine Grove, he is currently fit to practice and he’s safe to practice to law and he’s in our system and performing well. And that is basically the history that we’ve had with Mr. Holliday to date. (Hearing Transcript pg. 31)

According to the JLAP contract executed by Applicant, if any drug/alcohol screening were confirmed positive, he would have to submit to a JLAP facilitated and approved multi-disciplinary patient assessment within 30 days of confirmation of the results. The resulting assessment would go directly to JLAP and the Office of Disciplinary Counsel. In Mr. Stockwell’s experience, no member of the public has been harmed as a result of a non-compliant JLAP participant because the system reacts very quickly to any aberration in the program. If Applicant were to become non-compliant with the JLAP program, he risks the threat of interim suspension and referral to the Louisiana Supreme Court for further review of his fitness to practice law.

John Ozier testified on behalf of Applicant. He appeared credible. He is Administrative Assistant at St. James Episcopal Church in Baton Rouge. He is a former State Farm Insurance employee for thirty-four years. He participated as a public member of the Louisiana Attorney Disciplinary Board for seven years. Applicant’s wife works at the St. James Episcopal Church day school. Mr. Ozier sees her and Applicant at the church. Based upon his personal observations of Applicant, his wife and child, their lifestyle, behavior and Applicant’s participation in church activities, he believes Applicant has the requisite character to practice law. He does not socialize with Applicant outside of church-related activities.

Hallea Holliday is Applicant’s wife of eight years. She appeared credible and concerned. She presents as a person who will stand her ground and not tolerate too much foolishness. She has

known Applicant for sixteen years. Applicant drinks alcohol socially. She does not believe he has a problem with alcohol. Alcohol use is not part of their family's lifestyle. Since Applicant entered the JLAP program, she has not seen him consume any alcohol. There was testimony related to the former charges to which Applicant plead no contest and which formed the basis of his prior disciplinary proceeding. The testimony was received over ODC's objection, but had no evidentiary value to the committee's recommendation as to Applicant's reinstatement.

Winston Wade Riddick, Sr. testified. He presented as credible, knowledgeable and straightforward in his testimony. He is an attorney licensed to practice law in the State of Louisiana. Applicant grew up as a child down the street from Mr. Riddick. Applicant's father, who was also an attorney, represented a company owned by Mr. Riddick. Mr. Riddick is familiar with one of Applicant's prior disciplinary issues and has seen him approximately bi-monthly since the time that disciplinary issue arose. He was unaware of the second disciplinary issue involving Applicant's daughter. He believes Applicant has the requisite character, competence and overall general skill set to be fit to practice law again.

Slater Armstrong testified. He appeared credible. He is a member of the Holy Cross Angelical Church. He and Applicant are members of a men's Bible Study and prayer group over the last three years. The meetings are approximately once a week, but cannot say that he sees Applicant 52 times a year, accounting for vacations, etc. The meetings last an hour to an hour and a half. He believes Applicant is genuine and sincere.

Steven J. Holliday (Applicant) testified. He appeared credible. He was not argumentative or hostile. He recognized his wrong-doing in the past that led to the suspension of his law license. He recognized his reluctance to participate in the disciplinary process, which complicated, worsened and prolonged the disciplinary process.

Much of his testimony discussed the circumstances leading up to the prior disciplinary proceedings. The child involved in the prior disciplinary issues is now of the age of majority. She lives out of state. There have been no additional charges or complaints with respect to the child.

Applicant recognizes that he should have handled things differently. He appears to genuinely regret his past conduct. He appears remorseful. He believes that his current relationships and participation in Bible study have helped him become more reflective and able to cope with adversity.

He has not acted as an attorney since his suspension. He worked as a paralegal with Barry Gulino's law firm. He has paid all funds ordered paid by the Louisiana Supreme Court. He is current with his mandatory continuing legal education requirements. He stayed abreast of changes in the law during suspension by participating in CLE's while working at the Public Service Commission. He has also taught Construction Law for the past ten semesters. He is currently teaching an Immigration Law course as well. He is committed to compliance with the JLAP program.

He acknowledged his failure to file past tax returns. He is current on filing. He has no outstanding debt from another source.

In terms of his honesty and fitness to practice law, Applicant testified that he "lost his way" during a bad marriage. He believes that through public service, hard work and self-education, he has learned from his past mistakes. Applicant appeared to be apologetic, regretful, and remorseful during his testimony.

Lisa Johnson testified. She appeared credible. She is an administrative director for Garrity and Associates, CPA's in Baton Rouge. She has known Applicant since 1995. She worked for

Applicant's father. She was somewhat familiar with Applicant's troubled marriage and issues relating to his then-minor-child. She had kept up with him through nearly weekly Rotary Club of Baton Rouge events through the years. She has not observed him consume any alcoholic beverages in recent years. She is familiar with Applicant's 2017 tax return filings. He filed for an extension and then filed his 2017 tax return. She believes he is fit to practice law.

Karen Trevathan testified. She appeared credible. She is an attorney. She has known Applicant since 1989. She went to law school with him. They were in Inns of Court together. She sees Applicant occasionally when voting. She is also a friend of his on Facebook. She does not believe that Applicant's former wife was a good person and was a bad influence on Applicant. She believes she knows Applicant's character from her experiences with him over multiple years of contact. She believes he has the requisite character, honesty and "moral fiber" to practice law.

Dr. Mark Mainous testified. He appeared credible. He is a general surgeon, practicing in Shreveport. He has known Applicant since 2002-2003. He occasionally sees Applicant when he comes to Baton Rouge for an LSU event. He did not know Applicant when Applicant had his DWI issues. He has observed Applicant and Applicant's daughter interact. He believes they have a "great relationship." He has never seen Applicant under the influence of alcohol. He believes Applicant has the requisite moral fitness to resume the practice of law.

James "Jimmy" Field testified. He appeared credible. He has been an attorney for more than fifty years. He has spent considerable time as a Public Service Commissioner. He was introduced to Applicant eight years ago when Applicant began working for Foster Campbell at the Public Commissioner's Office. About three or four years ago, Applicant began attending Bible study with Mr. Field. He also sees Applicant and his wife at St. James Episcopal Church and Rotary Club meetings. He recommends that Applicant be allowed to practice law.

Jeremy Kliebert testified. He appeared credible. He is an attorney with the Albermarle Corporation. He met Applicant in an MBA class around 2004. He spent time with Applicant during the MBA program, during a trip to China, and has maintained contact since via telephone and text messaging. He has observed Applicant consume alcohol, but has never seen him in an intoxicated state. He believes Applicant has the moral character to return to the practice of law.

The parties stipulated that if witnesses Frank Phillips, Ross Henry, Jim Solomon, Fred Heroman, Jake Netterville, Laura Gulino and Nick Campbell were called to testify, they would testify as follows:

1. I know Applicant;
2. I know him well enough to express the opinion that he is of good moral character;
3. I believe him to be honest;
4. I believe he is able to return to the practice of law;
5. I have never seen him engage in any inappropriate behavior;
6. If I did see Applicant engage in inappropriate behavior, I would be very disappointed in him.

The record was left open to allow Applicant an opportunity to submit additional evidence in the form of MCLE credits and his 2017 tax return. The tax returns, medical records and substance abuse evaluations were filed under seal without objection to Applicant's personal information. The committee finds there is good cause to protect these documents, which contain personal financial and medical information, including but not limited to social security numbers and other personal identification numbers. The record accurately reflects the substance of the sealed documents and form the basis for Applicant's compliance with Louisiana Supreme Court Rule XIX, Section 24 with respect to the applicable subsections.



## **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.”**

The committee finds that the evidence proves clearly and convincingly that Applicant has satisfied the requirements for reinstatement pursuant to Louisiana Supreme Court Rule XIX, Section 24.

### **RECOMMENDATION**

The committee recommends reinstatement with the following conditions:

1. Applicant be required to continue diagnostic monitoring with the Judges and Lawyers Assistance Program (JLAP) for a period of one year, beginning on the date of reinstatement. (If the agreement terminates by its own terms at any time before the expiration of one year post reinstatement, Applicant shall agree to execute a new agreement to satisfy these terms.)
2. Applicant maintain good standing pursuant to his agreement/contract with JLAP during the monitoring period;
3. Applicant shall maintain strict compliance with the Rules of Professional Conduct;

4. Applicant shall cooperate with the Office of Disciplinary Counsel in the event of an inquiry as to his fitness to practice law; and

5. Applicant shall satisfy all requirements to practice law pursuant to the rules governing attorneys in the State of Louisiana.

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

Signed in Baton Rouge, Louisiana on the 6<sup>th</sup> day of March, 2019.

**Louisiana Attorney Disciplinary Board  
Hearing Committee # 15**

**John H Smith, Committee Chair  
Laurie N. Marien, Lawyer Member  
Vallan B. Corbett, Public Member**



**BY: \_\_\_\_\_  
John H Smith, Committee Chair  
FOR THE COMMITTEE**