

In re Sarah Jane Melisande Jones
Petitioner-Appellee

Supreme Court No. M.R. M.R. 30490
Commission No. 2020PR00057

Synopsis of Review Board Report and Recommendation
(August 2022)

Petitioner seeks reinstatement. She was disbarred on consent in 2012, based on misconduct relating to her immigration practice in California.

Following a hearing at which Petitioner was represented by counsel, the Hearing Board found that Petitioner proved that she is rehabilitated and meets the requirements for reinstatement, and the Hearing Board recommended that Petitioner be reinstated to the practice of law at this time, subject to strict conditions and oversight, including mental health treatment and supervision of her law practice by another attorney, for a period of three years. The Administrator appealed, asking the Review Board to recommend that Petitioner not be reinstated at this time.

The Review Board affirmed the Hearing Board's finding that Petitioner proved she is rehabilitated and meets the requirements for reinstatement, and the Review Board recommended that Petitioner be reinstated to the practice of law, subject to the conditions recommended by the Hearing Board, as well as additional conditions concerning restitution.

**BEFORE THE REVIEW BOARD
OF THE
ILLINOIS ATTORNEY REGISTRATION
AND
DISCIPLINARY COMMISSION**

In the Matter of:

SARAH JANE MELISANDE JONES,

Petitioner-Appellee,

No. 6211249.

Supreme Court No. M.R. 30490

Commission No. 2020PR00057

REPORT AND RECOMMENDATION OF THE REVIEW BOARD

SUMMARY

Petitioner seeks reinstatement. She was disbarred on consent in 2012, based on misconduct relating to her immigration practice in California.

Following a hearing at which Petitioner was represented by counsel, the Hearing Board found that Petitioner proved that she is rehabilitated and meets the requirements for reinstatement, and the Hearing Board recommended that she be reinstated to the practice of law, with conditions including mental health treatment and supervision of her law practice by another attorney. The Administrator appealed, asking this Board to recommend that Petitioner not be reinstated at this time.

For the reasons that follow, we affirm the Hearing Board's finding that Petitioner proved she is rehabilitated and meets the requirements for reinstatement, and we recommend that Petitioner be reinstated to the practice of law, subject to strict conditions and oversight for a period of three years, as recommended by the Hearing Board. We further recommend that additional conditions concerning restitution relating to two former clients be imposed, as set forth below.

FILED

August 15, 2022

ARDC CLERK

BACKGROUND

The facts are fully set out in the Hearing Board's report and are summarized only to the extent necessary here.

Petitioner

Petitioner was one of ten children, and she grew up in poverty in Cairo, Illinois. She eventually went to college at St. Louis University, and to law school at Washington University, in St. Louis, graduating in 1992. After being admitted to the Illinois bar in 1993, she moved to California, where she handled immigration cases, and where she still lives. She was not required to have a California law license in order to practice immigration law in California. She never practiced in Illinois.

Petitioner initially worked for other attorneys before opening her own law firm in 1996. Petitioner specialized in immigration cases and appeals. She had a successful practice until 2008, when the recession hit. Prior to the recession, Petitioner handled a total of more than 1,400 client matters and employed another attorney and several support staff. Her youngest sister managed the law office. Petitioner also did some *pro bono* work on immigration cases.

Petitioner suffered a series of personal tragedies between 2003 and 2011. Petitioner's oldest brother committed suicide in 2003, which was very traumatic for Petitioner. He had been Petitioner's role model. After his death, Petitioner began to suffer from depression, was unable to sleep or eat, and had frequent crying spells. Petitioner's father also died in 2003.

Petitioner's mother died in 2005. Petitioner's oldest sister died of colon cancer in 2007, and Petitioner had been very close to her sister, who had helped to raise Petitioner. Another brother died in 2011. Petitioner testified that she could not process all of the deaths. Although

petitioner obtained some therapy, she primarily responded by becoming very focused on her work in order to block out her problems.

After the recession hit in 2008, Petitioner lost many of her clients, and had financial difficulties running her law practice. In approximately 2009, Petitioner gave up her office space and laid off most of her staff. Petitioner was in her early fifties and had been practicing law for approximately fifteen years. At that point, Petitioner's depression worsened. As the Hearing Board noted, "[b]y 2010, she was extremely fragile, cried for hours at a time, and could no longer focus on work, open her mail or answer her phone." (Hearing Bd. Report at 3.) In 2010 or 2011, Petitioner was no longer able to handle her cases, and she abandoned her law practice. Petitioner gave her active immigration files to two other attorneys, and it was her understanding that those attorneys would contact the clients. She also lost her home.

Petitioner's Misconduct

Between approximately 2008 and 2010, Petitioner engaged in misconduct in six separate immigration cases, which included neglecting client matters, failing to communicate with clients, making misrepresentations to clients, failing to refund unearned fees, and engaging in conduct prejudicial to the administration of justice. Her misconduct was, in large part, causally related to her severe depression at the time of the misconduct.

In 2011, the Ninth Circuit Court of Appeals sanctioned Petitioner \$2,000 for failing to take certain actions, which included notifying clients that she was withdrawing from all pending cases.

In 2012, Petitioner was disbarred on consent in Illinois. *In re Jones*, 2011PR00147, *petition for disbarment on consent allowed*, M.R. 25094 (Jan. 17, 2012).

Petitioner's Conduct Since She was Disbarred

Petitioner began mental health treatment in 2013, which included therapy and medication. She has taken anti-depressants since 2013 and testified that she plans to continue taking them. She has not had a major depressive episode since she began treatment in 2013. She lives with her youngest sister and has developed a support system of family and friends, including people she knows through yoga, Buddhism, and the legal community.

Since approximately 2015, Petitioner has volunteered at a school, a library, a housing board, and the Buddhist Center that she attends. Between 2014 and 2018, Petitioner worked as a tutor for approximately one year and as a substitute teacher for approximately three years. Between 2018 and 2020, she managed a yoga studio, and after the pandemic began, she taught yoga lessons on-line, for free.

After she was disbarred, Petitioner occasionally worked for an attorney writing briefs and motions between 2012 and 2018. She worked on fifteen to twenty matters for that attorney and was paid per document. She also wrote briefs and motions for another attorney, after she was disbarred, for approximately six months in 2012, working two or three days a week. She had no interactions with clients; she did not sign or file any documents, and her work was reviewed by the attorneys. Petitioner testified that, although she knew that she could not hold herself out as an attorney or give legal advice, she thought that the work she was doing was permissible because the legal writing was similar to work that a paralegal or secretary would do, and the attorneys, who were licensed in California, knew that she had been disbarred and still hired her.

Petitioner has been financially supported by her youngest sister since 2012. Her sister testified that she is happy to support Petitioner, and that doing so is not a burden. Petitioner

discharged most of her debt through a bankruptcy proceeding in 2016. She has no outstanding debt, except student loans, which are in forbearance.

In 2021, Petitioner completed 20 hours of continuing legal education (“CLE”). She also kept track of immigration law through her own informal study.

In 2020, Petitioner paid restitution totaling \$14,450 to the ARDC Client Protection Program, which had reimbursed five of Petitioner’s clients for unearned fees, including two of the clients named in the Statement of Charges in the Petition for Disbarment on Consent. Petitioner’s youngest sister provided the funds. In July 2021, Petitioner also paid the \$2,000 sanction imposed by the Ninth Circuit.

Three character witnesses testified that Petitioner is honest, truthful, and a good person.

Petitioner testified that, if she is reinstated, she would like to volunteer part-time at an organization that has low-income clients, and handle immigration cases on a *pro bono* basis.

Petitioner’s Mental Health

As part of this reinstatement proceeding, the Administrator hired a forensic psychiatrist, Dr. Stephen Dinwiddie, to perform a psychological evaluation of Petitioner. He diagnosed Petitioner with severe recurrent Major Depressive Disorder, which is in remission. He testified that Petitioner’s professional misconduct in 2010, possibly going back as far as 2008, was primarily attributable to her very severe depressive illness, although it did not cause her to make false statements. Dr. Dinwiddie testified that, in his opinion, to a reasonable degree of medical certainty, Petitioner is capable of practicing law again.

HEARING BOARD'S FINDINGS AND RECOMMENDATION

In determining whether to recommend that Petitioner be reinstated to practice, the Hearing Board looked to Supreme Court Rule 767(f), which instructs the hearing panel to “consider the following factors, and such other factors as the panel deems appropriate, in determining the petitioner's rehabilitation, present good character and current knowledge of the law:”

1. The nature of the misconduct for which Petitioner was disciplined;
2. The maturity and experience of Petitioner at the time discipline was imposed;
3. Whether Petitioner recognizes the nature and seriousness of the misconduct;
4. Whether Petitioner has made restitution;
5. Petitioner's conduct since discipline was imposed; and
6. Petitioner's candor and forthrightness in presenting evidence to support the petition.

The Hearing Board considered the evidence that was presented to it in light of these factors and, based on the record as a whole, concluded that Petitioner had established her rehabilitation, her good character, and her current knowledge of the law. Specifically, the Hearing Board found that the nature of Petitioner's misconduct, and Petitioner's age and experience, did not prohibit her reinstatement. The Hearing Board considered Petitioner to be truly remorseful for her conduct and found that she recognized the nature and seriousness of her actions. The Hearing Board found that Petitioner had satisfied her restitution obligations by reimbursing the ARDC's Client Protection Program for payments made to former clients for unearned fees, and that Petitioner could not make additional restitution payments because she did not have the records needed to locate clients and determine whether restitution was owed.

The Hearing Board also found that, although Petitioner made some errors along the way, her conduct since disbarment shows that Petitioner is rehabilitated and has taken many positive steps, which include addressing her mental health issues, engaging in volunteer and religious activities, working as a teacher and manager, being financially stable, and developing a strong support group. Additionally, the Hearing Board found Petitioner's testimony, and her written petition, to be honest and thorough and her explanations to be credible. The Hearing Board also found that by staying abreast of legal issues concerning immigration and taking CLE courses, Petitioner had sufficient knowledge of the law to reenter the practice of law.

The Hearing Board concluded that none of the enumerated factors weigh against reinstatement, and that Petitioner has shown convincingly that she is rehabilitated and has returned to a life that is "beneficial, constructive, and trustworthy." (Hearing Bd. Report at 19.) Accordingly, the Hearing Board recommended that Petitioner be reinstated.

Given Petitioner's past mental health issues, and her time away from practice, the Hearing Board also recommended that a three-year period of probation be imposed, with conditions including mental health treatment and supervision of her practice by another attorney, in order to protect the public and guard against the possibility of a relapse.

ANALYSIS

The Administrator argues that the Hearing Board erred in finding that Petitioner satisfied the requirements for reinstatement and erred by recommending reinstatement. Specifically, the Administrator contends that the evidence shows that Petitioner is not ready to practice law, based on: (1) the serious nature of Petitioner's misconduct, which occurred at a time when Petitioner was a mature and experienced attorney; (2) Petitioner's mental health issues,

which present the risk of a relapse; (3) Petitioner's conduct since she was disbarred; and (4) Petitioner's failure to take additional steps to locate former clients and pay restitution to them.

An attorney who seeks reinstatement has the burden of proving, by clear and convincing evidence, that she should be reinstated. *See In re Richman*, 191 Ill. 2d 238, 244, 730 N.E.2d 45 (2000).

The Review Board defers to the factual findings of the Hearing Board and will not disturb them unless they are against the manifest weight of the evidence, *In re Timpone*, 157 Ill. 2d 178, 196, 623 N.E.2d 300 (1993), where the opposite conclusion is clearly evident, or the finding appears unreasonable, arbitrary, or not based on the evidence. *Leonardi v. Loyola University*, 168 Ill. 2d 83, 106, 658 N.E.2d 450 (1995); *Bazydlo v. Volant*, 164 Ill. 2d 207, 215, 647 N.E.2d 273 (1995). That the opposite conclusion is reasonable is not sufficient. *In re Winthrop*, 219 Ill. 2d 526, 542, 848 N.E.2d 961 (2006).

We review the Hearing Board's legal conclusions *de novo*. *See In re Scroggins*, 94 SH 638 (Review Bd., May 13, 1996) at 13, *approved and confirmed*, M.R. 10561 (Sept. 24, 1996). We also review the Hearing Board's recommendation *de novo*. *See In re Martinez-Fraticelli*, 03 RT 3002 (Review Bd., April 13, 2005) at 5, *recommendation adopted*, 221 Ill. 2d 255, 850 N.E.2d 155 (2006).

Although the Administrator asserts that he accepts the factual findings of the Hearing Board, his arguments level a challenge to the Hearing Board's factual findings, including credibility findings, which are the basis for its recommendation of reinstatement. Moreover, the Administrator appears to be asking us to reweigh the evidence and draw different inferences from those drawn by the Hearing Board, which is not our role on review. *See In re Tuchow*, 90 CH 305 (Review Bd., Oct. 12, 1994) at 11, *approved and confirmed*, M.R. 6757 (Jan. 25, 1995) (the

Review Board will not substitute its judgment for that of the Hearing Board regarding inferences drawn from the evidence).

We find the evidence supports the Hearing Board's determination that Petitioner established her rehabilitation, good character, and current knowledge of the law, and that she should be reinstated to the practice of law. We address the Administrator's specific claims of error below.

Petitioner's Misconduct and Experience

The Administrator argues that the Hearing Board failed to give sufficient weight to the seriousness of Petitioner's misconduct, and her maturity and experience. We reject that argument.

The Administrator's argument is a mixed question of fact and law. See *In re Martinez-Fraticelli*, 2003PR3002 (Review Bd., April 13, 1995) at 6, *petition for leave to file exceptions allowed*, 221 Ill. 2d 255, 850 N.E.2d 155 (2006) (the argument "that the Hearing Board failed to afford sufficient weight to the seriousness of Petitioner's misconduct ... is, at least, a mixed question of fact and law to which some deference is appropriate.").

The Hearing Board found that, although Petitioner's misconduct was very serious, and she was mature and experienced, Petitioner was suffering from debilitating depression at the time of her misconduct, primarily resulting from the deaths of close family members, and the impact of the recession. Dr. Dinwiddie testified that, to a great extent, Petitioner's misconduct was directly attributable to her very severe depressive illness, and that in 2010 and 2011, Petitioner was "quite impaired ... [with] quite a severe episode of illness at that time ... [and the] misconduct occurring at that time and later could be adequately attributed to a severe, very severe depressive illness." (Tr.392.) As discussed below, Dr. Dinwiddie also testified that Petitioner's illness has

been in remission since 2017 and she has fully recovered. The Hearing Board found that in general Petitioner's misconduct was not deliberate or self-serving.

Significantly, the Hearing Board also found that Petitioner recognized the nature and seriousness of her misconduct, fully accepted responsibility, and testified honestly and truthfully. The Hearing Board stated, "Petitioner acknowledged her misconduct with no attempt to minimize it and, in our opinion, has a clear understanding of her mistakes and the actions she should have taken to protect her clients' interests. Further, we believe her expressions of remorse were heartfelt and sincere." (Hearing Bd. Report at 7.) The Hearing Board's finding that Petitioner's understanding of her wrongdoing is a factual issue, which is entitled to great deference. *See In re Madsen*, 08 RT 3002 (Review Bd., March 14, 2011) at 8, *petition for leave to file exceptions denied*, M.R. 22475 (Sept. 20, 2011) ("A petitioner's understanding of his misconduct is a factual issue and as such, the Hearing Board's determination must be given great deference.").

The Hearing Board concluded that Petitioner's honesty, her sincere remorse, and her recognition of the seriousness of her misconduct, all weigh in favor of Petitioner's reinstatement. The Administrator does not contest those findings and has not addressed those very significant factors on appeal.

Moreover, as the Hearing Board pointed out, other attorneys have been reinstated, even though their conduct was very serious, including attorneys who were mature and experienced. *See In re Prusak*, 2017PR00042 (Review Bd., Aug. 26, 2019), *leave to file exceptions denied*, M.R. 28736 (Jan. 17, 2020) (attorney was reinstated, despite the serious nature of his misconduct that involved nine separate cases in which he neglected and failed to communicate with clients, made misrepresentations to clients and to the ARDC, engaged in a conflict of interest, and failed to return an unearned fee; his misconduct was causally related to his alcohol and cannabis

dependence, ADHD, depression, and anxiety, for which he was successfully treated); *In re Martinez-Fraticelli*, 221 Ill. 2d 255, 850 N.E.2d 155 (2006) (mature and experienced attorney was reinstated even though he had been convicted of ghost payrolling and defrauding taxpayers); *In re Fleischman*, 135 Ill. 2d 488, 553 N.E.2d 352 (1990) (mature and experienced attorney was reinstated even though he paid bribes to public officials and made false statements).

We conclude that the Hearing Board did not err in finding that Petitioner's misconduct, and her age and experience, did not preclude reinstatement.

Petitioner's Mental Health

The Administrator next argues that the Hearing Board erred in finding that Petitioner's mental health is not a bar to reinstatement. Specifically, the Administrator argues that Petitioner is unfit to practice law because there is a risk that she may suffer a relapse. That argument fails.

The Hearing Board pointed out that, in Dr. Dinwiddie's opinion, "Petitioner has no identifiable psychological symptoms that would prevent her from functioning as an attorney and acting in a client's best interests." (Hearing Bd. Report at 10.) Additionally, Dr. Dinwiddie testified that the risk of a relapse can be decreased by preventative treatment, including ongoing medication. (Tr. 394.) The Hearing Board recommended conditions requiring mental health treatment for a period of three years, which will help decrease the risk of a relapse.

Moreover, Dr. Dinwiddie testified that Petitioner had fully recovered, her depression had been in total remission since 2017, and there was no evidence that her depression would interfere with her judgment. (Tr. 390-91; 406; 410-11; 426.) He also testified that Petitioner had good insight into her condition and that she was remorseful for the problems that she caused her clients. (Tr. 412.) Significantly, Dr. Dinwiddie testified that Petitioner had the ability to obtain

and organize information; think critically; solve complex problems; communicate clearly; work with others; resolve conflicts; and provide advice to clients. (Tr. 420-21.)

The Hearing Board also took into consideration the steps that Petitioner has taken to improve her mental health, including receiving therapy, taking medication, developing a strong support system of family and friends, participating in her religious community, and seeking out assistance when needed. Based on Petitioner's testimony, the Hearing Board concluded that Petitioner "is acutely aware of her risk of recurrence and will be on guard to recognize and address any symptoms, as she has shown she can do. As for her treatment, we were convinced she will comply with any recommended changes made by a mental health professional after a full evaluation." (Hearing Bd. Report at 14.)

The risk of having a relapse should not be a permanent bar to reinstatement, particularly considering Petitioner's successful mental health treatment and the positive actions she has taken to change and improve her life. With mental illness and other mental problems, such as addiction, there is frequently a risk of relapse, and giving substantial weight to such a risk could make it unreasonably difficult to obtain reinstatement.

The Hearing Board recommended the imposition of conditions for three years that include mental health treatment and oversight of Petitioner's practice. The Hearing Board concluded, and we agree, that those conditions will help to keep Petitioner on-track, guard against the possibility of a relapse, and protect the public. We conclude that the Hearing Board did not err in finding that Petitioner's mental health is not an impediment to reinstatement.

Petitioner's Conduct Since Disbarment

The Administrator argues that the Hearing Board erred in finding that Petitioner should be reinstated based on Petitioner's conduct since disbarment. Specifically, the

Administrator argues that Petitioner should not be reinstated because she lacks financial stability; she violated of Illinois Supreme Court Rule 764; and she did not take CLE courses until 2021. That argument is unpersuasive.

In a reinstatement proceeding, the focus is on the petitioner's rehabilitation and character, with rehabilitation being the most important consideration. *In re Martinez-Fraticelli*, 221 Ill. 2d 255, 850 N.E.2d 155 (2006). Rehabilitation is demonstrated by the petitioner's return to a beneficial, constructive, and trustworthy role. *In re Wigoda*, 77 Ill. 2d 154, 159, 395 N.E.2d 571 (1979).

The Hearing Board found that Petitioner's conduct demonstrates her rehabilitation. Petitioner presented substantial evidence that she has changed significantly since her disbarment, which includes proactively and successfully addressing the mental health issues that led to her misconduct; living in a stable environment with her youngest sister for many years; working in the areas of teaching and management; participating in community and charitable activities; and developing a strong support system of family, friends, and colleagues.

That conduct, which strongly demonstrates rehabilitation, is in stark contrast to Petitioner's life at the time of her misconduct, when she was severely depressed and had essentially hit rock bottom. *See In re Elkin*, 2019PR00099 (Hearing Bd., Feb. 17, 2022), *approved and confirmed*, M.R. 030186 (May 19, 2022) (attorney was reinstated, after he presented sufficient evidence of positive conduct to prove his rehabilitation, even though he had previously abandoned his law practice; his misconduct had resulted from his mental health issues that were caused, in part, by a series of stressful events).

We conclude that Petitioner presented sufficient evidence to prove she is rehabilitated and is unlikely to repeat her past mistakes.

Petitioner's Financial Situation

The Administrator argues that the Hearing Board erred in finding that Petitioner's financial situation supported reinstatement because Petitioner has outstanding student loans; she is unemployed; and she is dependent on her sister. We disagree.

Prior to the Covid epidemic, Petitioner worked as a teacher and the manager of a yoga studio for several years, and thereafter she taught yoga on-line for free, which demonstrates that Petitioner is willing to work, has the ability to obtain employment, and is able to handle responsibility. Moreover, as the Hearing Board explained, Petitioner has "improved her situation by obtaining a discharge of her debts (other than her student loans), avoiding new debt, and maintaining a stable living arrangement with her sister." (Hearing Bd. Report at 15.) Petitioner testified that she planned to repay her student loans, which are in forbearance, and the Hearing Board found that testimony credible.

Petitioner's sister has financially supported Petitioner since 2012, and her sister testified that she is willing to continue providing financial support for Petitioner as needed. We note that many individuals are supported by their spouses or partners, just as Petitioner is supported by her sister. That does not make Petitioner's financial situation unstable or precarious, and it does not present a risk that Petitioner will engage in misconduct as a result of her financial situation. The Hearing Board did not err in finding that Petitioner's financial situation supports reinstatement.

Petitioner's Violation of Rule 764

The Administrator argues that the Hearing Board failed to give sufficient weight to Petitioner's violations of Illinois Supreme Court Rule 764. Specifically, the Administrator contends that Petitioner should not be reinstated because she failed to file a Rule 764 affidavit

when she was disbarred in 2012, and she worked sporadically for two lawyers after disbarment. That argument fails.

Rule 764 sets forth the duties of disciplined attorneys, requiring maintenance of records, notification to clients represented by the attorney within one year prior to the date of discipline, notice to the courts and attorneys concerning all pending matters, and the submission of an affidavit within thirty-five days of discipline concerning compliance with those requirements. It also prohibits disciplined attorneys from practicing law. Petitioner testified that she was not aware of Rule 764 when she was disbarred. The Hearing Board accepted that testimony.

Petitioner filed a Rule 764 affidavit in 2021 in which she stated that, when she was disbarred in 2012, she had no clients and no pending matters; she had not represented any clients for a year; she was not counsel of record in any matter, and she had already transferred or destroyed her client files. She also testified that her failure to file an affidavit in 2012 was due to her debilitating mental illness.

The Hearing Board took into consideration Petitioner's mental state in 2012, and that her office had been closed for more than a year. While that does not excuse Petitioner's failure to file a Rule 764 affidavit, it lessens the potential harm. The Hearing Board properly concluded that the failure to file a Rule 764 affidavit does not preclude reinstatement.

In terms of Petitioner's working for two attorneys after her disbarment, the Hearing Board found that Petitioner did not intentionally engage in the unauthorized practice of law; rather, she was unaware of Rule 764, and believed her actions were proper. Although the Hearing Board did not condone Petitioner's violations of Rule 764, the Hearing Board concluded that Petitioner's violations of Rule 764 were offset by the strides she made in other areas. The Hearing Board

declined to give controlling weight to Petitioner's violations of Rule 764. We agree with that determination.

Moreover, other lawyers have been reinstated even though they failed to comply with Rule 764. *See In re Parker*, 149 Ill. 2d 222, 595 N.E.2d 549 (1992) (attorney was reinstated even though she worked in a law office as a paralegal while disbarred, was unaware that working in a law office was prohibited, and failed to comply with the Rule 764 requirements); *In re Reese*, 2010PR00092 (Hearing Bd., Dec. 6, 2011) at 13, *approved and confirmed*, M.R. 24012 (March 19, 2012) (attorney's failure to comply with Rule 764's notice requirements occurred at time when his decisions were impaired by his use of alcohol and drugs); *In re Stepter*, 07 RT 3008 (Hearing Bd., March 12, 2009), *approved and confirmed*, M.R. 21968 (Sept. 24, 2009) (attorney was reinstated with conditions, after successful drug treatment, even though he failed to comply with the Rule 764 affidavit requirement, because he was not aware of that requirement);

We find that the Hearing Board did not err in finding that Petitioner's Rule 764 violations do not bar reinstatement.

Petitioner's Current Knowledge of the Law

The Administrator argues that the Hearing Board failed to give sufficient weight to Petitioner's delay in taking CLE courses. The Administrator contends that Petitioner's failure to take CLE courses until 2021, shows that Petitioner is not committed to resuming a professional role. We disagree.

The Hearing Board specifically rejected that argument, finding that recent CLE courses are preferable to education that was completed years ago. *See In re Prusak*, 2017PR00042 (Hearing Bd., Dec. 5, 2018) at 19, *affirmed*, (Review Bd., Aug. 26, 2010), *petition for leave to file exceptions denied*, M.R. 28736 (Jan. 17, 2020) ("given that Petitioner must demonstrate current

knowledge of the law, it would seem that recent coursework would be preferable to more distant coursework”). The Hearing Board also noted that Petitioner in this case made an effort to keep track of current immigration law. We conclude that the Hearing Board did not err in finding that Petitioner established that her current knowledge of the law is sufficient for reinstatement.

Restitution

The Administrator argues the Hearing Board erred in finding that the issue of restitution does not preclude Petitioner’s reinstatement. The Administrator asserts that Petitioner should have taken additional steps to locate former clients and pay restitution to them, including paying restitution to two specific former clients. We agree with the Administrator that Petitioner should pay restitution to those two former clients if they can be located, or Petitioner should pay an equivalent amount, in lieu of restitution, to the ARDC’s Client Protection Program, and we recommend that certain conditions be imposed relating to that restitution. We agree with the Hearing Board, however, that the issue of restitution does not bar Petitioner’s reinstatement.

The Hearing Board found that Petitioner satisfied her restitution obligation by paying \$14,450 to the ARDC’s Client Protection Program, which had made payments to five of Petitioner’s clients for unearned fees. The Hearing Board also noted that Petitioner paid the \$2,000 monetary sanction imposed by the Ninth Circuit.

The Hearing Board found that Petitioner was not able to pay restitution to her former clients because she no longer has any client records or any financial records from her law practice, which closed more than ten years ago. Petitioner testified that, without the client records, she cannot locate her clients, and, even if she could locate those clients, she could not determine whether she owed money to those clients without the financial records. (Tr. 150.) Petitioner also

testified that former clients owed her approximately \$30,000 in fees, but she destroyed those records as well. (Tr. 150-151.) The Hearing Board accepted Petitioner's testimony.

The Hearing Board concluded that Petitioner's payment of restitution was adequate, and her inability to pay additional restitution due to the lack of records does not bar reinstatement, citing *In re Thomas*, 76 Ill. 2d 185, 191-92, 390 N.E.2d 890 (1979) (Petitioner was not able to make restitution because he no longer had the files or information that would enable him to locate his clients from ten years before; the Court granted reinstatement, stating, "Under these circumstances petitioner's failure to show an effort to make restitution does not serve to preclude his being reinstated.").

The Hearing Board further found that Petitioner did not intentionally shirk her duty to pay restitution, and accepted Petitioner's testimony that she did not have the financial means to make restitution prior to 2020, when her sister provided the funds to reimburse the ARDC. The Hearing Board also accepted Petitioner's testimony that she could not afford to pay for the storage of the records, and she destroyed the records to protect the privacy of her clients' information. The Hearing Board concluded that Petitioner acted to protect her clients and not for any nefarious reason. Additionally, the Hearing Board noted that Petitioner is willing to contribute to the ARDC's Client Protection Program or a charity in lieu of restitution. We agree that restitution in this case does not preclude reinstatement.

In *In re Berkley*, 96 Ill. 2d 404, 412, 451 N.E.2d 848 (1983), the Court stated that "restitution should be a condition of reinstatement except in those instances where repayment to the victims is conclusively established to be an impossibility." This case fits within that parameter because even if Petitioner could locate her former clients, Petitioner could not determine what

services she had provided to those clients, more than ten years ago, and whether she owed them restitution for unearned fees.

As the Administrator points out, however, there are two former clients, to whom Petitioner owes restitution, who are identifiable. Those clients are named in the Statement of Charges, in the 2012 Petition for Disbarment on Consent, and the amount owed is also identified. (*See* Adm. Ex. 4 at 6-16.) Specifically, the Statement of Charges identifies two clients, who paid unearned fees to Petitioner totaling \$23,213, namely, L.G. Guadarrama (\$10,231) and R.M. Gonzalez (\$13,000). The Administrator argues that Petitioner should be required to attempt to locate those clients and make restitution. We agree.

Requiring payment to those two clients, or payment of an equivalent amount in lieu of restitution, serves the dual purpose of protecting client-victims and maintaining public confidence in the legal profession. Therefore, we recommend adding the conditions set forth below, requiring Petitioner to make restitution to those two clients, totaling \$23,213, if Petitioner can locate them, or, if she cannot locate them, requiring Petitioner to pay \$23,213 in lieu of restitution to the ARDC's Client Protection Program. *See In re Fleischman*, 135 Ill. 2d 488, 497, 553 N.E.2d 352 (1990) (attorney reinstated with the condition that the attorney pay \$5,000 restitution); *In re Smith*, 2017PR00105 (Review Bd., May 11, 2020), at 15-17, *approved and confirmed*, MR. 028983 (Sept. 21, 2020) (attorney reinstated subject to payment of restitution); *In re Reese*, 2010 PR 00092 (Hearing Bd., Dec. 6, 2011) at 28, 39-41, *approved and confirmed*, M.R. 24012 (March 19, 2012) (attorney reinstated with the condition that the attorney repay an unearned fee of \$1,500, if the client could be located, or pay that amount to the Client Protection Program or another organization); *In re Braner*, 93 SH 482 (Hearing Bd., Oct. 21, 1994) at 9, *approved and*

confirmed, M.R. 9547 (Jan. 25, 1995) (attorney reinstated with the condition that he pay \$1,350 to a charitable organization in lieu of restitution).

In sum, we conclude the Petitioner should be required to pay restitution of \$23,213 or make a payment of \$23,213 in lieu of restitution. We also conclude that the Hearing Board was correct in finding that Petitioner's inability to make additional restitution to other former clients – due to the lack of records – does not preclude reinstatement. We recommend that reinstatement be subject to the conditions recommended by the Hearing Board, together with the following conditions concerning restitution:

- a. Within six months of the Court's order imposing discipline in this matter, Petitioner shall pay restitution to L.G. Guadarrama totaling \$10,231, and to R.M. Gonzalez totaling \$13,000, and provide proof of payment to the Administrator;
- b. Within six months of the Court's order imposing discipline in this matter, if Petitioner cannot locate R.M. Guadarrama and/or L.G. Gonzalez, Petitioner shall pay \$23,231 to the ARDC's Client Protection Program, in lieu of restitution, minus any monies paid to R.M. Guadarrama or L.G. Gonzalez, and provide proof of payment to the Administrator.

As stated in the conditions recommended by the Hearing Board, Petitioner's conditional reinstatement shall be revoked if she is found to have violated any of the conditions of reinstatement, and she shall be suspended from the practice of law until further order of the Court.

CONCLUSION

In sum, based on the record as a whole, we agree with the Hearing Board that Petitioner has shown by clear and convincing evidence that she is rehabilitated and is once more fit to practice law. We believe that Petitioner should be given a second chance. The evidence shows that Petitioner successfully sought out mental health treatment and her depression is in remission; she has taken numerous successful steps to change and improve her life; she has acknowledged her misconduct and understands the severity of her acts; and she is sincerely remorseful. We

believe that Petitioner will be able to successfully practice law without harming the public, and that the recommended conditions will help Petitioner succeed.

Accordingly, we recommend that Petitioner be reinstated to the practice of law, subject to the conditions recommended by the Hearing Board, with the additional conditions concerning restitution set forth above.

Respectfully submitted,

J. Timothy Eaton
Michael T. Reagan
Esther J. Seitz

CERTIFICATION

I, Michelle M. Thome, Clerk of the Attorney Registration and Disciplinary Commission of the Supreme Court of Illinois and keeper of the records, hereby certifies that the foregoing is a true copy of the Report and Recommendation of the Review Board, approved by each Panel member, entered in the above entitled cause of record filed in my office on August 15, 2022.

/s/ Michelle M. Thome

Michelle M. Thome, Clerk of the
Attorney Registration and Disciplinary
Commission of the Supreme Court of Illinois

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**BEFORE THE REVIEW BOARD
OF THE
ILLINOIS ATTORNEY REGISTRATION
AND
DISCIPLINARY COMMISSION**

In the Matter of:

SARAH JANE MELISANDE JONES,

Petitioner-Appellee,

No. 6211249.

Supreme Court No. M.R. 30490

Commission No. 2020PR00057

**PROOF OF SERVICE
OF THE REPORT AND RECOMMENDATION
OF THE REVIEW BOARD**

I, Michelle M. Thome, hereby certify that I served a copy of the Report and Recommendation of the Review Board on the parties listed at the addresses shown below by e-mail service on August 15, 2022, at or before 5:00 p.m. At the same time, a copy was sent to Counsel for the Administrator-Appellant by e-mail service.

Sari W. Montgomery
Counsel for Petitioner-Appellee
smontgomery@rsmldlaw.com

Sarah Jane Melisande Jones
Petitioner-Appellee
sjones5058@gmail.com

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that she verily believes the same to be true.

Michelle M. Thome,
Clerk

/s/ Michelle M. Thome
By: Michelle M. Thome
Clerk

FILED

August 15, 2022

ARDC CLERK