

IN THE SUPREME COURT OF THE STATE OF KANSAS

RULES RELATING TO DISCIPLINE OF ATTORNEYS

Rule 219  
REINSTATEMENT

Supreme Court Rule 219 is hereby amended, effective the date of this order

~~(a) After complying with Rule 218(b), any attorney who shall have been disbarred or suspended may, by verified petition, apply for an order of reinstatement. Such petition shall bear the case number and caption appearing in the order of discipline, and an original and eight copies thereof shall be filed with the Clerk of the Appellate Courts. Such petition shall set forth facts showing that the attorney has been rehabilitated or is entitled to have the order of discipline vacated, terminated, or modified. The burden of proof by substantial clear and convincing evidence as to all aspects in a reinstatement petition and hearing is upon the petitioner a suspended or disbarred attorney may file a petition for reinstatement by filing an original and eight copies of the verified petition with the Clerk of the Appellate Courts. Prior to filing the petition for reinstatement, the suspended or disbarred attorney must have paid any and all costs associated with all disciplinary cases and must have paid \$1,250 to the Clerk for costs of the reinstatement proceeding. Such funds shall be deposited by the Clerk in the disciplinary fee fund. The petition shall bear the case number and caption appearing in the opinion ordering the suspension or disbarment.~~

~~(b) Upon the filing of such petition for reinstatement, the petitioner shall pay as costs for the proceedings for reinstatement the sum of \$750.00 to the Clerk of the Appellate Courts. Such funds shall be deposited by the Clerk in the disciplinary fee fund.~~

~~No hearing shall be had on any application for reinstatement until the required funds as above set out have been paid to the Clerk. No hearing shall be had on such petition until all outstanding costs assessed in any prior disciplinary hearing involving the petitioner have been paid. The petition must set forth facts establishing that the attorney has been rehabilitated or is entitled to have the order of discipline vacated, terminated, or modified.~~

~~(c) On receipt of such petition, the Clerk of the Appellate Courts shall immediately forward copies thereof to the Supreme Court. The Supreme Court shall determine if sufficient time has elapsed since the date of suspension or disbarment, considering the gravity of the original acts misconduct leading to suspension or disbarment, to justify the~~

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reconsideration of its prior order of suspension or disbarment of the petitioner. If the Court finds that sufficient time has not elapsed, the petition for reinstatement shall be dismissed. If the Court finds that the petition for reinstatement should be heard, then the Clerk of the Appellate Courts shall immediately forward a copy thereof to the Disciplinary Administrator, and a panel of the Disciplinary Board shall thereafter promptly consider the same and report to the Supreme Court in duplicate its findings, conclusions, and recommendations. The proceeding shall be governed by the applicable provisions of the rules governing hearings in disciplinary proceedings. The Clerk, on receipt of such report, shall mail a copy thereof to the respondent. The Disciplinary Administrator shall conduct a thorough investigation of the facts alleged in the petition for reinstatement and of petitioner's conduct since the discipline was imposed by the Court.

(d) If the petitioner was disbarred or suspended for an indefinite period of time, the petitioner shall appear before a hearing panel of the Kansas Board for Discipline of Attorneys for a reinstatement hearing governed by the applicable provisions of the rules governing hearings in disciplinary proceedings. If the petitioner was suspended for a definite period of time, the petitioner shall appear before a hearing panel for a reinstatement hearing only if ordered to do so by the Court.

(e) If the petitioner was suspended for a definite period of time and the Court imposed conditions on reinstatement, the petitioner shall provide the Disciplinary Administrator with an affidavit and any other appropriate evidence that the petitioner has fully complied with the conditions. If the Disciplinary Administrator determines that the petitioner has fully complied with the conditions imposed by the Court, the Disciplinary Administrator shall certify the same to the Court. If the Disciplinary Administrator determines that the petitioner has not fully complied with the conditions, the Disciplinary Administrator shall file a motion with the Court for a reinstatement hearing before a hearing panel of the Kansas Board for Discipline of Attorneys.

(f) Following the reinstatement hearing, the hearing panel of the Kansas Board of Discipline shall recommend to the Court that the petitioner be reinstated only if the petitioner establishes by clear and convincing evidence each of the following factors as applicable to the facts:

(1) that the petitioner is currently morally fit;

(2) that the petitioner has demonstrated consciousness of the wrongful conduct and the disrepute that the conduct has brought the profession;

(3) that the petitioner has been rehabilitated;

(4) that the seriousness of the misconduct leading to suspension or disbarment does not preclude reinstatement;

(5) that the petitioner's conduct since the discipline was imposed by the Court favors reinstatement;

(6) that sufficient time has elapsed since the original discipline;

(7) that the petitioner presently possesses the necessary legal skills;

(8) that the petitioner has fully complied with the prior orders of the Court;

(9) that the petitioner has not engaged in the unauthorized practice of law;

(10) that the petitioner has received adequate treatment and/or rehabilitation in regard to any substance abuse, infirmities, or problems; and

(11) that the petitioner has resolved or attempted to resolve any other complaints against him or her.

(g) The hearing panel shall provide the Court with an original Final Hearing Report detailing its findings of fact, conclusions of law, and recommendation. The Clerk shall forward a copy of the Final Hearing Report to the petitioner.

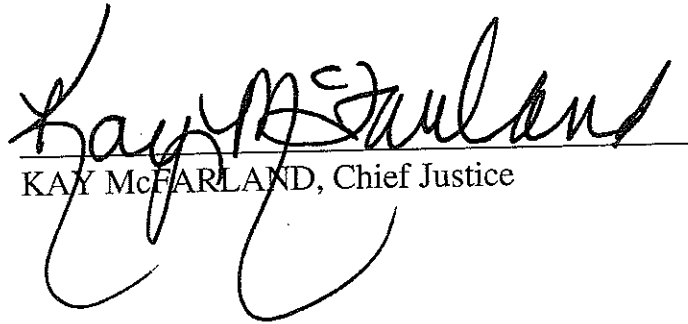
(d h) If the hearing panel recommends reinstatement, the matter shall stand submitted for the Court's consideration. If the report of the hearing panel recommends denial of the petition for reinstatement, the attorney petitioner shall have twenty days from the date of mailing of such recommendation the Final Hearing Report to file exceptions with the Clerk of the Appellate Courts exceptions thereto; whereupon, the matter shall stand submitted. If the report recommends reinstatement the matter shall stand submitted for consideration. After the receipt of exceptions, the matter shall stand

submitted for the Court's consideration. Neither briefs nor oral argument shall be permitted unless requested by the Supreme Court. The Supreme Court may impose appropriate conditions for reinstatement.

(e i) Any attorney who is disbarred shall not be eligible to apply for reinstatement for five years from the date of disbarment. Any attorney who is indefinitely suspended shall not be eligible for reinstatement for three years from the date of suspension unless the order of disbarment or suspension states otherwise. Passage of such time periods shall be considered a minimum and not, per se, grounds for reinstatement.

By order of the Court, this 23rd day of July, 2008.

FOR THE COURT



KAY McFARLAND, Chief Justice