

People v. Brooks, No. 01PDJ008, 3/13/01. Attorney Regulation. The Presiding Disciplinary Judge accepted the parties' Conditional Admission of Misconduct and suspended Respondent William T. Brooks from the practice of law for a period of nine months. Respondent engaged in a sexual relationship with his client, who had been a close friend since high school, for over an eight-year period while he represented the client and her husband. The client with whom respondent was involved was murdered by her husband. Respondent was interviewed by sheriff's investigators concerning his knowledge of the clients. During the interview, respondent engaged in deceit with the sheriff's investigators, misrepresenting the length of his relationship with the client. Eventually evidence was uncovered which established the length of the relationship. When confronted with the evidence, respondent initially represented to defense counsel for the husband that the relationship had only lasted one night, and then admitted the length of the relationship. Respondent justified his deceit by stating that he was "in shock" at the time of the interview; however, he failed to correct the misrepresentation several months later. Respondent's misrepresentation concerning his relationship with the client was a material fact in the defense of the husband in the criminal proceedings. Respondent's misconduct violated Colo. RPC 8.4(c), Colo. RPC 8.4(d), and Colo. RPC 1.7(b). Respondent was ordered to pay the costs of the proceeding.

SUPREME COURT, STATE OF COLORADO
CASE NO.: **99PDJ039**
ORIGINAL PROCEEDING
BEFORE THE PRESIDING DISCIPLINARY JUDGE

**OPINION AND ORDER READMITTING ROBERT E. BROOKS
TO THE PRACTICE OF LAW**

ROBERT E. BROOKS,

Petitioner,

v.

THE PEOPLE OF THE STATE OF COLORADO,

Respondent.

ATTORNEY READMITTED TO THE PRACTICE OF LAW

This readmission matter was heard on July 12, 1999, pursuant to C.R.C.P. 251.29(a) before the Presiding Disciplinary Judge ("PDJ") and two hearing board members, Madeline A. Collison and Maureen A. Cain, both members of the Bar. Philip A. Cherner represented Robert E. Brooks ("Brooks"), former attorney registration no. 11186. Luain T. Hensel, Assistant Attorney Regulation Counsel, represented the People of the State of Colorado (the "People"). The following witnesses testified on behalf of Brooks: Dr. Gerald Zarlengo, Rowe P. Stayton, W. Melville Dole, Rev. Kenneth Glasier, Jerome Porter, Kathleen Marlowe, Beverly Nussbaumer, Joe Pickard, Mary J. Brooks, and Robert E. Brooks. Brooks submitted Exhibits 1 and 2, which were admitted into evidence. On June 29, 1999 the parties entered into and filed a Stipulation of Facts for Trial setting forth facts which were not in dispute.

I. FINDINGS OF FACT

The PDJ and Hearing Board considered the testimony and exhibits admitted, the stipulation of facts filed, assessed the credibility of the witnesses, and made the following findings of fact which were established by clear and convincing evidence:

On March 28, 1988, Robert E. Brooks was disbarred from the practice of law by the Colorado Supreme Court. *See People v. Brooks*, 753 P.2d 208 (Colo. 1988). Brooks filed a Petition for Readmission with the PDJ on March 11, 1999, and tendered the \$500.00 deposit for the costs of the readmission proceedings.

Pursuant to the order of disbarment, Brooks was ordered to pay \$211.38 in costs. In April of 1999, Brooks paid the costs in full.¹ Brooks sat for and passed the Fall 1998 Colorado Bar Exam.

Robert Corbin was one of the complainants in the proceedings which led to Brooks' disbarment. Mr. Corbin obtained a judgment against Brooks as a result of Brooks' misconduct. Brooks discharged this judgment in bankruptcy in 1991. In 1999 Brooks reached an accommodation/reaffirmation with Mr. Corbin. Brooks paid Mr. Corbin

¹ The Supreme Court opinion disbaring Brooks required him to pay costs of \$211.38 within thirty days of that order. Brooks did not pay within thirty days but did pay the full amount due plus interest at the statutory rate prior to these reinstatement proceedings. The PDJ and Hearing Board determined the payment as made, under the circumstances of this case, placed Brooks in compliance with the Court's earlier order for purposes of C.R.C.P. 251.28.

\$2,000, and signed a promissory note for an additional \$10,000. Other pending grievances against Brooks were not pursued to conclusion after he was disbarred. In one of those he accepted \$500.00 in fees from Suzanne deLeon. This sum has been refunded. Brooks has also refunded \$520.00 to Edwin Martinez, another former client who had complained of Brooks' misconduct.

Both prior to his disbarment in 1988 and subsequent thereto, Brooks had no other history of discipline and no criminal convictions. The People raised no objection to Brooks' readmission.

The parties stipulated in the course of the proceedings that Brooks fully complied with the requirements set forth in C.R.C.P. 241.21 following disbarment.²

The witnesses who testified on Brooks' behalf established by clear and convincing evidence that Brooks, during the period of his disbarment, remained active in the legal profession as a paralegal and office manager, that he was a responsible and reliable employee of the law firms which employed him, and that he attempted to keep himself current in the relevant fields of law in which the law firms practiced. Several of the lawyers who testified on Brooks' behalf attributed a substantial measure of their success in appellate proceedings to Brooks' expertise in legal research, analysis and writing.

Brooks candidly addressed the substance abuse problem which was a key factor in his disbarment. He admitted that in 1994 he experienced a short relapse of substance abuse. Brooks promptly disclosed the relapse to his employer and other colleagues, immediately sought help and took steps to insure that it did not affect his work. The relapse was fully resolved through treatment. Both Brooks and his treating health care provider attributed the substance abuse problem -- both at inception and during the period of relapse -- to Brooks' inability and failure to properly handle increasing levels of stress. Brooks presented credible evidence that he is now aware of his limitations regarding stress levels and addresses them. Several of his witnesses confirmed his ability to recognize and appropriately respond to situations involving heightened levels of stress.

In the years following his disbarment, Brooks became an active member of his church and joined the choir group. He sought support from the Colorado Lawyers' Health Program, and continues to participate in its programs. He also commenced an active physical fitness program to assist in dealing with stress.

² C.R.C.P. 241.21 was replaced by C.R.C.P. 251.28, effective January 1, 1999.

Based on the testimony of Mr. Stayton, Mr. Pickard, Mr. Dole, and Brooks himself, the PDJ and Hearing Board found that Brooks demonstrates the qualities of perseverance, honesty, integrity and truthfulness that the law profession holds in esteem and requires of its members. The testimony of Dr. Zarlengo, Rev. Glasier, Mr. Porter, Ms. Marlowe, Ms. Nussbaumer and Mary Jo Brooks established to the satisfaction of the PDJ and the Hearing Board that Brooks is a reformed and rehabilitated individual. He has expressed genuine remorse for his actions and the injury that resulted from them. He has attempted to compensate the individuals that were harmed by his actions, and will continue to do so.

II. CONCLUSIONS OF LAW

Robert E. Brooks is subject to the jurisdiction of this court pursuant to C.R.C.P. 251.1(b).

C.R.C.P. 251.29(a) provides in part:

Readmission After Disbarment. A disbarred attorney may not apply for readmission until at least eight years after the effective date of the order of disbarment. To be eligible for readmission the attorney must demonstrate the attorney's fitness to practice law and professional competence, and must successfully complete the written examination for admission to the Bar. The attorney must file a petition for readmission, properly verified, with the Presiding Disciplinary Judge, and furnish a copy to Regulation Counsel. Thereafter, the petition shall be heard in procedures identical to those outlined by these rules governing hearings of complaints, except it is the attorney who must demonstrate by clear and convincing evidence the attorney's rehabilitation and full compliance with all applicable disciplinary orders and with all provisions of this Chapter.

Consideration of the issue of rehabilitation requires the PDJ and Hearing Board to consider numerous factors bearing on the petitioner's state of mind and professional ability, including character, conduct since the imposition of the original discipline, professional competence, candor and sincerity, present business pursuits, personal and community service, and the petitioner's recognition of the seriousness of his previous misconduct. *People v Klein*, 756 P. 2d 1013, 1016 (Colo. 1988).

Under the factors set forth in *Klein*, 756 P.2d at 1016, the PDJ and Hearing Board found that Brooks established by clear and convincing evidence that he is rehabilitated, possesses the requisite ability and professional competence to practice law, and has conducted himself in a manner which comports with the requirements of the legal profession during the period of his disbarment. Brooks was candid and sincere during the readmission proceedings.

The PDJ and Hearing Board are required to protect the public interest in allowing Brooks to resume the practice of law. In accordance with that responsibility and pursuant to C.R.C.P. 251.29(e), the PDJ and Hearing Board impose the following conditions upon Brooks as express conditions of his resumption of the practice of law:

1. Brooks is required to continue his involvement with Colorado Lawyer's Health Program, at his own expense, for a period of three years and during that time attend a minimum of two meetings per month;
2. Upon request by the Office of Attorney Regulation Counsel, Brooks will submit to random urinalysis testing for a period of two years, at his own expense, and disclose the results of the testing promptly to the Office of Attorney Regulation Counsel;
3. Brooks will secure the services of an attorney licensed to practice law in the State of Colorado who has been practicing for five years to serve as an attorney monitor. The attorney monitor will meet with Brooks on a quarterly basis for a period of two years, will monitor Brooks' professional activities, and will furnish the Office of Attorney Regulation Counsel with quarterly written reports regarding Brooks' activities. The attorney monitor will discuss and review with Brooks all aspects of his return to the practice of law. Brooks will be responsible for any and all costs associated with the costs of such monitoring.
4. Brooks will submit to an examination, at his own expense, by Ms. Nussbaumer or another qualified psychiatric consultant within one hundred and eighty (180) days of the date of this Order and authorize the release of the examiner's findings and opinions to the Office of Attorney Regulation Counsel.
5. Brooks will, within twelve months (12) of the date of this Order, and at his own expense, attend and satisfactorily

complete the one-day ethics course sponsored by the Office of Attorney Regulation Counsel.

6. Brooks will make “good faith efforts” to contact prior clients who suffered injury and make efforts to resolve such injury, including but not limited to Mr. Abercrombie.
7. Brooks will pay, within thirty (30) days of the date of this Order, the balance due of all costs incurred, if any, arising from this readmission proceeding. The People shall file with the PDJ a Statement of Costs within ten (10) days of the date of this Order. Brooks will have five (5) days thereafter to file a Response to the Statement of Costs.
8. Brooks will be assigned a new registration number upon re-registration to reflect his readmission to the bar.
9. Brooks is required to certify compliance with paragraphs 1 through 7 of the above conditions of readmission to the Office of Attorney Regulation Counsel no later than thirty-six (36) months from the date of this Order.

III. ORDER OF READMISSION

It is therefore ORDERED:

Upon the conditions set forth herein, Robert E. Brooks, former attorney registration no. 11186, is READMITTED to the practice of law effective the 3rd day of September, 1999. Robert E. Brooks will appear before the Presiding Disciplinary Judge on or before September 3, 1999 and take the Oath of Admission.

DATED THIS 25th DAY OF AUGUST, 1999.

(SIGNED) _____
ROGER L. KEITHLEY
PRESIDING DISCIPLINARY JUDGE

(SIGNED) _____
MADELINE A. COLLISON
HEARING BOARD MEMBER

(SIGNED) _____
MAUREEN A. CAIN
HEARING BOARD MEMBER