

IN RE APPLICATION OF PANEPINTO.

[Cite as *In re Application of Panepinto* (1999), ___ Ohio St.3d ____.]

*Attorneys at law — Application to take Ohio Bar examination denied, when —
Applicant permitted to reapply to take July 1999 bar examination, when.*

(No. 98-1772 — Submitted October 13, 1998 — Decided January 20, 1999.)

ON REPORT of the Board of Commissioners on Character and Fitness of the
Supreme Court, No. 166.

On July 9, 1996, Mark Daniel Panepinto of Wheeling, West Virginia, applied to register as a candidate for admission to the practice of law in Ohio. After personally interviewing Panepinto, the Admissions Committee of the Belmont County Bar Association originally recommended approval of his admission to practice law.

The admissions committee subsequently received a copy of a letter sent by Wheeling Municipal Court Judge George E. McLaughlin, which indicated that in 1982 and 1985, Panepinto obtained additional driver's licenses in an attempt to circumvent a license suspension order. The admissions committee then requested and received further information from Judge McLaughlin and the West Virginia Department of Motor Vehicles.

On June 25, 1997, based on the new evidence, the admissions committee recommended that Panepinto be approved with qualifications, which under Gov.Bar R. I(11)(F)(1) operated as a recommendation that Panepinto not be admitted to practice law in Ohio.

Panepinto appealed the committee's decision to the Board of Commissioners on Character and Fitness of the Supreme Court ("board"), and a panel of the board heard the matter on October 21, 1997. According to the board,

the panel concluded that Panepinto lacked the requisite character and fitness for admission to practice law in Ohio but disagreed as to the appropriate sanction.

The board reviewed the evidence and the report and recommendation submitted by the panel chairperson, and made the following findings. In 1981, Panepinto applied for and was issued a West Virginia driver's license under the name of Mark D. Panepinto. In March 1982, when Panepinto was sixteen years old, his license was suspended for six months. In order to continue driving, Panepinto applied for and was issued a second West Virginia driver's license, and then a third in 1985, after being convicted of additional traffic violations. The applications and driver's licenses listed different names, Social Security numbers, and mailing addresses for Panepinto.

In his application for admission to practice law in Ohio, Panepinto did not completely disclose the foregoing facts concerning his driver's licenses and suspensions. In response to the request that he state in full each name by which he had been known, the dates the names were used, and the reasons for using the names, Panepinto simply answered "Mark D. Panipinto [*sic*]-1985-error on driver's license."

Panepinto continued to misrepresent some of the facts concerning his multiple licenses and 1982 license suspension in a July 1997 letter to the Supreme Court Admissions Office.

In his Ohio application, Panepinto additionally misstated that he had never been a party to any legal proceeding in a juvenile court and that he had never been suspended from or terminated from enrollment in any high school. At the hearing, Panepinto admitted that he had been suspended from one high school for fighting and placed on probation for that incident by the juvenile court. Another high school requested that Panepinto withdraw for academic reasons.

Panepinto claimed that his failure to give complete and truthful responses resulted from his being “very busy,” the application being “very lengthy,” and his past actions being “very remote.” Panepinto also stated that Judge McLaughlin, who had provided the information concerning Panepinto’s multiple driver’s licenses, was jealous of him and was conducting a vendetta against him.

At the hearing, Panepinto attempted to modify his application and explain all of the pertinent issues. Panepinto not only submitted numerous affidavits of persons attesting to his exceptional character, but also evidence that he had become a successful used car dealer and real estate developer by the time he applied to be admitted to practice law.

The board concluded that because of the incomplete nature of Panepinto’s application and his “piecemeal explanations” of serious omissions in his application, he did not establish that he had the requisite character and fitness for admission. The board recommended that Panepinto be required to submit a new application to register as a candidate for admission to the practice of law and a new application to take the bar examination, and that he submit to a new character and fitness examination. The board further recommended that the earliest he be permitted to take the bar examination be July 1999.

Yoss & Hampton and Thomas A. Hampton, for relator.

Mark D. Panepinto, pro se.

Per Curiam. In order to be admitted to the practice of law in Ohio, the applicant must establish by clear and convincing evidence his “present character, fitness, and moral qualifications for admission to the practice of law in Ohio.” Gov.Bar R. I(12)(C)(6). Evidence of false statements, including material

omissions, and lack of candor in the admissions process reflect poorly on an applicant's present character, fitness, and moral qualifications. See Gov.Bar R. I(11)(D)(3)(h), (i) and I(11)(D)(4)(i), (j).

After reviewing the evidence, we adopt the findings and recommendation of the board. Panepinto's false and incomplete answers in his application, his continued dishonesty during part of the admissions process, and his attempts to excuse or minimize his conduct at the hearing establish that he does not presently possess the integrity to be admitted to practice law in Ohio. See, *e.g.*, *In re Application of Calim* (1998), 82 Ohio St.3d 96, 694 N.E.2d 896; *In re Application of Salisbury* (1994), 69 Ohio St.3d 403, 632 N.E.2d 1288. Panepinto is permitted to reapply to take the July 1999 bar examination upon the submission of new applications to register as a candidate for admission to the practice of law and to take the bar examination, and upon further submission to a new character and fitness examination.¹

Judgment accordingly.

DOUGLAS, RESNICK, F.E. SWEENEY and PFEIFER, JJ., concur.

MOYER, C.J., COOK and LUNDBERG STRATTON, JJ., dissent.

FOOTNOTE:

1. We also overrule Panepinto's motion for the record to remain confidential.

COOK, J., dissenting. I would not permit this applicant to reapply for admission.

MOYER, C.J., concurs in the foregoing dissenting opinion.

LUNDBERG STRATTON, J., dissenting. Because I believe that Panepinto has demonstrated that he does not have the requisite fitness and character to be admitted to the practice of law, I respectfully dissent.

Had he admitted to his deceptive acts, I would agree with the majority. But his continued deception in the application process and his refusal to accept the responsibility for these misdeeds demonstrates a deeper character flaw that cannot be cured by time.

A lawyer must be honest, ethical, and above reproach. Panepinto clearly has none of these qualities. Therefore, I would permanently deny his application to take the bar exam.