

In the  
Indiana Supreme Court



IN THE MATTER OF  
ALAN ROY MILLER

)  
) Case No. 22S00-0107-DI-319  
)

ORDER DENYING PETITION FOR REINSTATEMENT

The Indiana Supreme Court Disciplinary Commission, upon review of the hearing officer's findings of fact and recommendation regarding petitioner Alan Roy Miller's *Petition for Reinstatement*, recommends to this Court that the petitioner not be reinstated to the practice of law in this state. The petitioner filed a petition for review to which the Commission has responded. This matter is now before us for final resolution.

In reviewing the Commission's recommendation, we employ the review process applicable to disciplinary actions, which involves a *de novo* examination of all matters tendered to this Court. The hearing officer's findings, in this instance adopted by the Commission, receive emphasis due to the hearing officer's unique opportunity for direct observation of witnesses, but they are not binding, and this Court reserves the right to reach the ultimate determination. *Matter of Gutman*, 599 N.E.2d 604 (Ind. 1992).

Petitioner was admitted to the practice of law in this state in 1985. On December 11, 2001, this Court suspended petitioner for not fewer than sixty days, effective January 1, 2002. Petitioner's suspension arose from his failure: to communicate with two incarcerated clients, to keep them advised on the status of their cases, to explain matters, to appear for a pre-trial conference, and to answer the Commission's verified complaint. *Matter of Miller*, 759 N.E.2d 209 (Ind. 2001). Petitioner filed his verified petition for reinstatement on April 1, 2005, and the hearing officer appointed by this Court heard evidence on January 12, 2006.

In order to become reinstated to the practice of law in this state, the petitioner must demonstrate by clear and convincing evidence satisfaction of the conditions contained in Ind.Admission and Discipline Rule 23 § 4. The hearing officer found that respondent did not

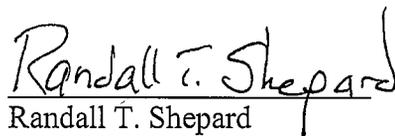
meet his burden of establishing two of these requirements, namely: Ind. Admission and Discipline Rule 23 § 4(b)(6), which requires that a petitioner show that he has a proper understanding and attitude toward the standards that are imposed upon members of the Bar and will conduct himself in conformity with such standards, and Admis.Disc.R. 23 § 4(b)(7), which requires that petitioner show that he can be safely recommended to the legal profession, the courts and the public as a person fit to be consulted by others and to represent them and otherwise act in matters of trust and confidence, and in general to aid in the administration of justice as a member of the Bar and an officer of the courts.

In light of the hearing officer's findings, the Commission recommended to this Court that petitioner not be reinstated. We now adopt the hearing officer's findings and conclusions, find that petitioner has failed to demonstrate compliance with Admis.Disc.R. 23 § 4(b), and therefore deny his petition for reinstatement.

IT IS, THEREFORE, ORDERED that Alan Roy Miller's petition for reinstatement to the practice of law in this state is DENIED.

The Clerk of this Court is directed to forward notice of this Order to the respondent or his attorney and to the Indiana Supreme Court Disciplinary Commission.

DONE at Indianapolis, Indiana, this 28<sup>th</sup> day of August, 2006.

  
Randall T. Shepard  
Chief Justice of Indiana

All Justices concur.