

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE
REINSTATEMENT OF MARY P.
GROESBECK TO PRACTICE LAW IN
NEVADA.

No. 37967

FILED

MAR 06 2002

JANE ILE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richards*
CHIEF DEPUTY CLERK

ORDER GRANTING PETITION FOR REINSTATEMENT

This is a petition for reinstatement from disability inactive status. Petitioner Mary Groesbeck was transferred to disability inactive status on January 2, 1998, pursuant to a joint petition by Groesbeck and bar counsel. At the time Groesbeck was transferred, eighteen grievances had been filed against her. We referred the petition for reinstatement to the Southern Nevada Disciplinary Board for a hearing on whether Groesbeck had met her burden of demonstrating that she had overcome her disability and was again fit to practice, and also to resolve the outstanding grievances.

The hearing panel has recommended that Groesbeck be reinstated, subject to a two-year probationary period with several conditions: (1) Groesbeck shall not practice as a sole practitioner or have law firm management duties during the probationary period; (2) she must disclose the terms of her probation to her employer; (3) she must have individual supervision of her caseload by a licensed Nevada lawyer, who must not be her husband; (4) if she is employed by a private firm, then she must submit monthly reports on the scope and nature of her caseload to bar counsel for three months, and quarterly reports after that for the

duration of the probationary period; (5) if she is employed by a private firm, she must participate in a mentorship program for the first year, with the mentor to be approved by bar counsel; (6) she must obtain twelve additional continuing legal education (CLE) credits (including two ethics credits) during the first six months of her practice, in addition to the credits required by SCR 210; (7) she must commence representation in three pro bono domestic cases during the first six months; and (8) she must maintain malpractice insurance. The panel also recommends that the grievances against her be dismissed, in light of the lengthy period Groesbeck has been prevented from practicing, contingent upon Groesbeck paying restitution to the Client Security Fund for sums paid to her clients as a result of her conduct.

Groesbeck filed an objection to certain conditions set forth by the panel. Groesbeck states that she does not object to reimbursing the Client Security Fund, and does not object to the second, sixth, and eighth conditions. She further indicates that she does not object in theory to the seventh condition requiring pro bono representation. But she notes that if she were employed in a government position, then she would be prohibited from engaging in pro bono representation; she also suggests that the number and timing of cases she accepts should be resolved between her and her employer, since her employer will bear some of the burden of any such cases. With respect to the first, third, fourth and fifth conditions, Groesbeck argues that such conditions are inconsistent with the panel's finding that her disability has been removed, and that while she does not intend to practice as a sole practitioner, she sees no reason why this option should be prohibited. She further argues that the reports to bar counsel could be viewed as objectionable by an employer, who might not wish to

have her caseload reviewed by someone outside the firm. Finally, she contends that no purpose is served by the condition that prohibits her from practicing with her husband.

Bar counsel filed an opposition to Groesbeck's objections. Bar counsel argues that a probationary period to monitor Groesbeck's transition back to the practice of law is appropriate in Groesbeck's case, because of two primary concerns. First, Groesbeck has not been practicing for over four years, and a probationary period will ensure that she regains her knowledge and competence in the law. Similarly, while Groesbeck and her medical provider testified that her disability was very unlikely to recur, some monitoring of her practice for a probationary period will ensure that the stresses of practice do not result in any recurrence, and that Groesbeck is able to handle legal practice with no threat of harm to her clients.

In addition, bar counsel notes that Groesbeck testified that her husband was not previously supportive of her practice, and that he had no interest in the practice areas she engaged in. While Groesbeck testified that this attitude had changed, her husband did not testify. Bar counsel argues that the panel was justifiably concerned that if Groesbeck practiced with her husband, she would not be subject to supervision but would instead effectively be a solo practitioner. Finally, bar counsel notes that the pro bono requirement could be waived if Groesbeck were employed in a government position for which such representation was prohibited, that these cases should be handled on Groesbeck's own time and thus would not be a burden on her employer, and that the condition is otherwise appropriate.

Having reviewed the record of the reinstatement proceedings and the documents submitted in support of the petition, we conclude that clear and convincing evidence supports the panel's findings. We further conclude that Groesbeck has established by clear and convincing evidence that her disability has been removed and that she is fit to resume the practice of law.¹

We agree with the panel that her reinstatement should be subject to a two-year probationary period, and that dismissal of the pending grievances is appropriate, on the condition that Groesbeck reimburse the Client Security Fund in the amount of \$3,200 by the end of the probationary period. We also agree, in large part, with the panel and bar counsel that the conditions are calculated to protect the public and ensure that Groesbeck makes a smooth transition back to practice. However, we modify the probationary conditions recommended by the panel, and require the following.

First, Groesbeck shall not practice as a solo practitioner or have law firm management duties during the probationary period. This condition will ensure that she can focus on regaining her former level of legal knowledge and skill without being required to deal with other matters such as personnel, facilities and equipment. Second, Groesbeck must disclose the terms of her probation to her employer. Third, she must obtain extra CLE credits as recommended by the panel. Fourth, she must maintain malpractice insurance. Fifth, Groesbeck must participate in a mentoring program during the entire probationary period, with a mentor to be approved by bar counsel and who is someone other than Groesbeck's

¹See SCR 117(6).

husband; Groesbeck and the mentor shall each provide quarterly reports to bar counsel. These reports may include non-confidential information concerning the scope and nature of Groesbeck's caseload, as well as any other matter relevant to Groesbeck's transition back to practice. This requirement must be met regardless whether Groesbeck is employed in the private or public sector. If, during the probationary period, bar counsel has reason to believe, from the reports or otherwise, that Groesbeck is exceeding her capabilities and that her clients may be harmed, he may petition this court for appropriate relief. We note that mentoring arrangements are a frequently imposed condition in bar matters. Reports to bar counsel are almost universally required in such instances, and while they customarily include relevant information concerning the general status of the mentored lawyer's practice, they need not and should not contain any confidential client information.


We conclude that the condition requiring Groesbeck to commence three pro bono cases in her first six months is unreasonable. The conditions are primarily imposed to ensure that Groesbeck does not take on too much too soon, and thus to protect the public. Requiring her to commence three cases in six months, in addition to the caseload assigned to her by her employer would not serve this purpose. While Groesbeck is encouraged to accept pro bono cases to the extent that her schedule and her employment permit, we conclude that this condition should not be required at the outset.

We further conclude that Groesbeck should not be prohibited outright from working with her husband. Although the lack of testimony from Groesbeck's husband makes this issue more difficult, the requirement that Groesbeck have a separate mentor, coupled with the

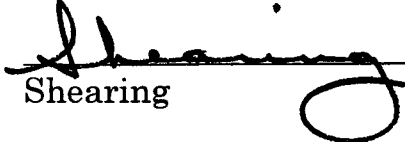
quarterly reports to bar counsel from both Groesbeck and the mentor, will provide a reasonable means to evaluate Groesbeck's transition back to practice.

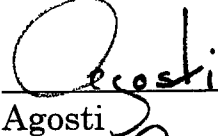
Accordingly, we hereby reinstate Groesbeck to the practice of law, subject to the conditions set forth above.

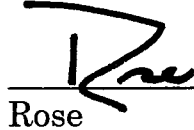
It is so ORDERED.

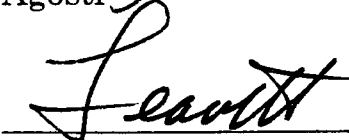

Maupin, C.J.



Young, J.


Shearing, J.


Agosti, J.


Rose, J.


Leavitt, J.


Becker, J.

cc: Richard J. Pocker, Chair,
Southern Nevada Disciplinary Board
Rob W. Bare, Bar Counsel
Allen W. Kimbrough, Executive Director
Perry Thompson, Admissions Office,
Supreme Court of the United States
Moran & Associates