

Not for Publication.

IN THE SUPREME COURT OF THE VIRGIN ISLANDS

IN RE: THE MATTER OF THE)
APPLICATION OF WILSON J.) **S. Ct. BA. No. 2009-0230**
CAMPBELL, ESQUIRE, FOR SPECIAL)
ADMISSION TO THE VIRGIN ISLANDS)
BAR.)
_____)

On Application for Admission to the Virgin Islands Bar
Considered and Filed: March 3, 2011

BEFORE: **RHYS S. HODGE**, Chief Justice; **MARIA M. CABRET**, Associate Justice; and
IVE ARLINGTON SWAN, Associate Justice.

OPINION OF THE COURT

PER CURIAM.

This matter is before the Court pursuant to the February 14, 2011 Report and Recommendations of the Committee of Bar Examiners with respect to Wilson J. Campbell’s application for special admission to the Virgin Islands Bar, in which the Committee recommends that this Court accept its finding that Campbell has proven to be a person of good moral character. For the reasons that follow, we remand this matter to the Committee for further proceedings.

I. BACKGROUND

On July 30, 2009, the United States Virgin Islands Department of Justice filed a motion to specially admit Campbell to the Virgin Islands Bar so that Campbell may serve as an Assistant Attorney General. This motion, which was brought pursuant to Supreme Court Rule 202,¹ stated

¹ Although the motion stated that it was brought “pursuant to the provisions of Rule 302 of the Territorial Court of the Virgin Islands,” effective September 1, 2007, applications for special admission to the Virgin Islands Bar are

that Campbell graduated from the University of Louisiana with a Bachelor of Arts degree in 1993, and graduated from the Southern University School of Law with a Juris Doctor degree in 1999. In addition, the motion stated that Campbell is admitted to practice law in the state of New Jersey, and that he is currently in good standing and had never been suspended or disbarred in that jurisdiction. The Department of Justice enclosed with its motion an affidavit by Campbell attesting to these facts, as well as a July 20, 2009 certificate of good standing issued by the Supreme Court of New Jersey.

After receiving the July 30, 2009 motion, the Committee initiated an investigation into Campbell's moral character with the National Conference of Bar Examiners ("NCBE"). In response to the NCBE's questionnaire, Campbell—who had served as a municipal judge while in New Jersey—disclosed that a complaint had been filed against him by the Advisory Committee on Judicial Conduct in New Jersey in February 2009, which he described as alleging that a "consensual dating relationship with a court employee violated judicial canons of ethics." Further investigation revealed that the Advisory Committee on Judicial Conduct had filed a complaint with the Supreme Court of New Jersey alleging that Campbell had engaged in an intimate relationship with a person who was working—at least on some occasions—as an employee in Campbell's court room, and that Campbell had failed to report the relationship to his superiors, thus allegedly violating that court's rules on judicial conduct and the judicial canon of ethics. The Advisory Committee on Judicial Conduct recommended that the Supreme Court of New Jersey publicly reprimand Campbell as a sanction, while Campbell objected to the proposed reprimand on the grounds that he was not obligated to report the relationship and that his failure to report did not violate any ethical rules.

governed by Supreme Court Rule 202. Accordingly, the Committee treated the references to the Territorial Court and the former Rule 302 as clerical errors and reviewed the motion under Supreme Court Rule 202.

On June 1, 2010, the Committee on Unauthorized Practice of Law of the Virgin Islands Bar Association notified Campbell that it received a complaint alleging that Campbell—who, although not yet specially admitted to the Virgin Islands Bar, lists “Chief of the Criminal Division” as his title—had made court appearances in at least two Superior Court cases and that he may have prepared or filed pleadings in various cases while employed with the Department of Justice. Although Campbell denied these allegations in a June 7, 2010 letter, the Committee on Unauthorized Practice of Law initiated a formal investigation on June 25, 2010. All of these documents indicate that copies were served with the Director of Bar Admissions on behalf of the Committee of Bar Examiners. Campbell, however, did not amend his NCBE questionnaire—which expressly asked if he has been the subject of an unauthorized practice of law complaint—to reflect this information.

On January 28, 2011,² the Committee of Bar Examiners convened a hearing on the issue of whether Campbell satisfied Supreme Court Rule 202’s requirement that an applicant for special admission possess good moral character. Campbell—who was the only witness to testify at the hearing—re-iterated his prior contention that the conduct that was the subject of the New Jersey complaint involved a private, consensual dating relationship that was permitted by the New Jersey Municipal Court, that he was not the employee’s supervisor even though she had been assigned to his courtroom for a period of time, and that he had no obligation to report the relationship. Unbeknownst to both Campbell and the Committee, the New Jersey Supreme Court issued its decision on the same day, in which it fully adopted the recommendations of the

² According to the Committee of Bar Examiners’ report, the Chair, in a May 10, 2010 letter, advised Campbell that, because the New Jersey Supreme Court had not yet ruled on the judicial ethics complaint, it would not hold a due process hearing until the New Jersey Supreme Court issued its decision or the passage of 180 days, whichever was earlier. In a November 12, 2010 letter, the Attorney General wrote to the Chair to inquire as to the status of the matter, and Campbell shortly thereafter requested that the Committee of Bar Examiners schedule a hearing.

Advisory Committee on Judicial Conduct and publicly reprimanded Campbell for violating Canons 1 and 2A of New Jersey's Code of Judicial Conduct. However, once aware of the decision, a copy of the decision was circulated to members of the Committee prior to its final deliberations.

In its February 14, 2011 Report and Recommendations, a majority of the Committee on Bar Examiners found that, although Rules 204(c)(6) and 204(d)(3) apply to applications for special admission, the January 28, 2011 public reprimand did not fall within the ambit of either rule. Specifically, the Committee held that Rule 204(c)(6),³ by its own terms, only applies to disciplinary action taken by a state or federal bar, which was not the case with the judicial ethics complaint against Campbell. In addition, the Committee interpreted the phrase "disciplinary action" in Rule 204(d)(3)⁴ to only apply to lawyer discipline, because "the standards for judicial disability and lawyer disability are not functionally equivalent." (Rep. at 4 (citing *In re Conduct of Ginsberg*, 690 N.W.2d 539, 555 (Minn. 2004).) Thus, because the New Jersey Supreme Court's decision to publicly reprimand Campbell had no impact on Campbell's right to practice law in New Jersey, the majority of the Committee concluded that "the New Jersey proceedings did not warrant a finding that [Campbell] failed to comply with Rule 204(d)(3), or that he lacked good moral character." (Rep. at 5.) A minority of Committee members, however, recommended against Campbell's admission.

³ "No application to the V.I. Bar may be filed by anyone who has been disbarred, suspended or sanctioned, without reinstatement or exoneration, or who is under pending disciplinary action by the Bar of any State, District or Territory of the United States or any foreign jurisdiction, or any Federal Court." V.I.S.CT.R. 204(c)(6).

⁴ "Each applicant for regular admission must allege and prove to the satisfaction of the committee that the applicant is . . . A person of good moral character who has not been disbarred, suspended or sanctioned, or who has been reinstated or exonerated, and who is not under pending disciplinary action, by any State, District, Territorial, Federal, or foreign jurisdiction." V.I.S.CT.R. 204(d)(3).

II. DISCUSSION

This Court has jurisdiction over admission to the Virgin Islands Bar. V.I. CODE ANN. tit. 4 § 32(e) (2007 Supp.). To gain special admission to the Virgin Islands Bar, an applicant must be (1) “employed or about to be employed as an attorney by the Government of the Virgin Islands, its branches, departments, agencies and instrumentalities,” (2) “admitted to practice in the highest court of a state, the District of Columbia or a commonwealth, territory or possession of the United States,” and (3) be “professionally, morally and ethically qualified for admission to the Bar of the Virgin Islands” so that “the admission of such person would be in the best interest of the Territory.” V.I.S.CT.R. 202(a). “In every case, the burden shall be upon the person seeking admission . . . to establish to the satisfaction of the court his or her qualifications for admission.” V.I.S.CT.R. 202(b).

As the Committee of Bar Examiners correctly recognized, this Court applies the same character and admission standards for applicants for special admission as it does for applicants for regular admission. This Court aptly set forth the standards applied in determining the moral qualifications of an applicant to the Virgin Islands Bar in *Application of Coggin*, 49 V.I. 432, 436 (V.I. 2008):

A bar applicant bears the burden of establishing his or her moral qualifications by clear and convincing evidence. *See* VISCR 203(h)(3); *V.I. Bar v. Brusch*, S. Ct. BA Nos. 2007/64, 2007/65, 2008 WL 901533, at *1 (V.I. March 3, 2008). . . .

Although we accord some deference to the Committee's finding of facts, it is ultimately this Court's responsibility to determine whether an applicant should be admitted to the V.I. Bar. 4 V.I.C. § 32(e) (2007 Supp.); *see also In re Baker*, 579 A.2d 676, 680 (D.C.1990). We are not bound by the Committee's recommendation that Coggin be denied admission. *See Brusch*, 2008 WL 901533, at *1; *In re Ogilvie*, 623 N.W.2d 55, 56 (S.D. 2001). We review the record de novo. *See Brusch*, 2008 WL 901533, at *1; *In re Application of Oppenheim*, 159 P.3d 245, 251 (N.M. 2007). Although character examination is subjective in nature, we are guided in our examination of character by the

American Bar Association Model Rules of Professional Conduct. *See* VISCR 203(a).

Pursuant to the Model Rules, it is professional misconduct when a lawyer perpetrates acts of dishonesty, fraud, deceit or misrepresentation. Model Rules of Prof'l Conduct R. 8.7 (2007). "A pattern of repeated offenses, even ones of minor significance when considered separately, can indicate indifference to legal obligation." *Id.* at cmt. 2. Although we focus our review on the applicant's present moral character, we review past misconduct because it gives us insight into the applicant's current character. *In re Hamm*, 123 P.3d 652, 657 (Ariz. 2005). An applicant must show that it is "highly probable" that he has the good moral character and fitness to practice law; any doubt is resolved in favor of denying admission in order to protect the public. *In re Covington*, 50 P.3d 233, 235 (Or. 2002). "Good moral character is traditionally defined as the absence of conduct imbued with elements of moral turpitude," which include "qualities of honesty, fairness, candor, trustworthiness, observance of fiduciary responsibility, respect for and obedience to the laws of the state and the nation and respect for the rights of others and for the judicial process." *In re Menna*, 905 P.2d 944, 948 (Cal. 1995) (citations and quotations omitted).

Applying this standard, this Court agrees, for the same reasons given in the February 14, 2011 Report, that the New Jersey Supreme Court's public reprimand is not an impediment that must preclude Campbell's admission on character and fitness grounds. As a threshold matter, this Court agrees with the numerous courts that have held that misconduct in a judgeship may affect an attorney's fitness to practice law or provide evidence of lack of good moral character. *See Fla. Bar v. Graham*, 662 So.2d 1242, 1244 (Fla. 1995) (citing *Fla. Bar v. McCain*, 30 So.2d 712 (Fla. 1976)); *Gordon v. Clinkscales*, 114 S.E.2d 15, 19 (Ga. 1960); *Jenkins v. Or. State Bar*, 405 P.2d 525, 527 (Or. 1965); *In re Stolen*, 214 N.W. 379, 383 (Wis. 1927). These courts, however, emphasized that, to reflect adversely on one's fitness to practice law or one's moral character, the misconduct that occurred as a judge should be of the nature that would constitute misconduct or be evidence of poor moral character if committed only by an attorney.⁵

⁵ *See, e.g., Gordon*, 114 S.E.2d at 19 ("We therefore hold that, irrespective of whether one is engaged in the practice of law, or activities disconnected with the practice, including judge of the superior court, his license will be canceled for conduct that would constitute grounds for disbarment of any attorney."); *Stolen*, 214 N.W. at 383 ("So if the

Based on the record before us, we cannot conclude that Campbell's public reprimand by the New Jersey Supreme Court affects Campbell's fitness to practice law in the Virgin Islands. As the Committee observed, the public reprimand has no impact on Campbell's authority to practice law in New Jersey, and notwithstanding its issuance Campbell remains an attorney of good standing in that jurisdiction. In addition, the New Jersey Supreme Court found that Campbell only violated portions of the Canons of the Code of Judicial Conduct that apply only to judges and do not overlap with the Rules of Professional Conduct that govern attorneys.⁶ Finally, while the Committee was permitted to take Campbell's lack of remorse into account, *see Broadman v. Com'mn on Judicial Performance*, 959 P.2d 715, 734 (Cal. 1998), the underlying conduct that formed the basis of the reprimand—failure to report a consensual dating relationship to a superior—is not, without more, evidence of moral turpitude. Accordingly, this Court adopts the Committee's conclusion that the New Jersey Supreme Court's public reprimand does not mandate that this Court deny Campbell's application for special admission.

Nevertheless, this Court cannot, at this time, adopt the Committee's ultimate recommendation that this Court find that Campbell has satisfied Rule 202(a)'s character and fitness requirement. Importantly, it appears that the sole focus of the January 28, 2011 hearing was the judicial ethics complaint filed against Campbell in New Jersey. It was the responsibility of the Committee, however, to conduct a complete and full inquiry into Campbell's moral character and fitness to practice law in the Virgin Islands. As this Court noted in *Coggin*, “respect for and obedience to the laws of the [territory] and the nation and respect for the rights

respondent, by or through his acts as judge of the superior court, betrays a lack of the moral qualifications demanded of attorneys at the bar, it becomes the duty of this court to strike his name from the roll of its attorneys.”).

⁶ Canon 1 of the New Jersey Code of Judicial Conduct provides that a judge should observe high standards of conduct so that the integrity and independence of the judiciary may be preserved, while Canon 2A mandates that a judge act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

of others and for the judicial process” is one of the qualities that an applicant must possess in order to meet his or her burden of establishing good moral character. 49 V.I. at 436. In addition, the *Coggin* decision emphasized that the Committee must also evaluate an applicant to determine his “candor” and “honesty.” *Id.*

Here, the record indicates that, although Campbell did not amend his NCBE questionnaire to reflect that an unauthorized practice of law complaint had been filed against him, the Committee was aware that the complaint had been filed, yet did not call as a witness the individual who had filed the complaint or report that it questioned Campbell about the allegations in that complaint or what duties he performs as “Chief of the Criminal Division.”⁷ As the Committee is aware, unauthorized practice of law is prohibited both by statute and court rule, and

shall be deemed to mean the doing of any act by a person who is not a member in good standing of the Virgin Islands Bar Association for another person usually done by attorneys-at-law in the course of their profession, and shall include but not be limited to: the appearance, acting as the attorney-at-law, or representative of another person, firm or corporation, before any court, referee, department, commission, board, judicial person or body authorized or constituted by law to determine any question of law or fact or to exercise any judicial power, or the preparation and/or filing of pleadings or other legal papers incident to any action or other proceeding of any kind before or to be brought before the same.

4 V.I.C. § 443; *see also* V.I.S.CT.R. 203(1). Significantly, in *Coggin* this Court expressly held that the Committee must, when conducting a character and fitness inquiry, consider “[w]hether

⁷ This Court notes that Campbell signed his June 7, 2010 letter to the Committee on Unauthorized Practice of Law—which Campbell also served on the Committee of Bar Examiners and the Chief Justice of this Court—as “Wilson J. Campbell, Esq., Chief of the Criminal Division.” In addition, this Court takes judicial notice, pursuant to Federal Rule of Evidence 201, of the official website of the Criminal Division of the Department of Justice, located at http://doj.vi.gov/DivisionContent_2.php?divId=88, as well as the Department of Justice’s “Contact Us” webpage, located at <http://doj.vi.gov/Contact.php>, which both identify Campbell as “Criminal Division Chief.” Moreover, although this Court cannot take judicial notice of the truth of the statement, we note that the first sentence of the Criminal Division’s website states that “The Criminal Division, under the supervision of the Criminal Division Chiefs in the Districts of St. Thomas/St. John and St. Croix, is responsible for the prosecution in the Superior Court of the Virgin Islands of all criminal matters on behalf of the Government of the Virgin Islands, which includes felony, misdemeanor and traffic violation cases.”

the [applicant] has engaged or attempted or offered to engage in the unauthorized practice of law.” 49 V.I. at 438. Furthermore, the *Coggin* decision also emphasized that, during such an inquiry, the Committee should also consider an applicant’s present position, including how the applicant presents himself through his job title. *Id.* at 439 (“[W]e note that the agreement listed legal counsel as part of Coggin’s title although he was disbarred at the time he entered into the agreement”). Thus, although Supreme Court Rule 203(1) provides the Committee on Unauthorized Practice of Law with jurisdiction to investigate unauthorized practice of law charges, the Committee on Bar Examiners possesses an obligation to inquire into and to investigate an allegation that an applicant for regular or special admission has engaged in the unauthorized practice of law prior to making a determination on the application, for if Campbell had engaged in unauthorized practice of law before being admitted to the Virgin Islands Bar, the violation would clearly have a bearing on his fitness to the admission of the Bar of this Court.⁸ Therefore, until the Committee conducts a full and complete investigation of Campbell’s character and fitness, this Court cannot ascertain whether Campbell has satisfied all of the requirements for special admission to the Virgin Islands Bar.⁹

⁸ We note that, in a January 14, 2011 Sealed Order entered in response to a petition the Committee on Unauthorized Practice of Law filed with this Court, this Court stated that all filings in that matter are sealed, and thus it is possible that the Committee of Bar Examiners may have believed that it could not rely on the Committee on Unauthorized Practice of Law’s petition and supporting materials even though it had been served with them. The purpose of the January 14, 2011 Order, however, was not to preclude the Committee of Bar Examiners—who was not a party to that action—from inquiring into whether Campbell had engaged in unauthorized practice of law, but only to prevent public inspection of subpoenas and other documents that the Committee on Unauthorized Practice of Law had filed directly with this Court.

⁹ In addition, although not a part of the record, this Court takes judicial notice, pursuant to Federal Rule of Evidence 201, of the existence of a December 26, 2010 police report filed against Campbell, which alleges that Campbell yelled at another Department of Justice attorney, put his hands and fingers on his face, and subsequently “cornered” him up against a wall because the attorney disagreed with Campbell with respect to a case. Although this Court cannot take judicial notice of whether the allegations in the police report are true, we note that the allegations in the report—if true—could potentially constitute a crime, *see* 14 V.I.C. § 299, and thus are relevant to any inquiry as to whether Campbell possesses “respect for and obedience to the laws of the [territory] and the nation and respect for the rights of others.” *Coggin*, 49 V.I. at 436. Moreover, because the allegations in the report—again, if true—imply

III. CONCLUSION

Although this Court agrees with the portion of the February 14, 2011 Report which holds that the New Jersey Supreme Court's January 28, 2011 public reprimand does not adversely reflect on Campbell's fitness to practice law or his moral character, it is not possible, without a more complete record, for this Court to determine whether Campbell is morally and ethically qualified for special admission pursuant to Supreme Court Rule 202. Accordingly, this Court remands this matter to the Committee of Bar Examiners so that it may conduct a full and complete investigation of Campbell's character and fitness, including—but not necessarily limited to—the allegations underlying the unauthorized practice of law complaint, as well as whether Campbell should have amended his NCBE questionnaire.

Dated this 3rd day of March, 2011.

ATTEST:
VERONICA J. HANDY, ESQ.
Clerk of the Court

that Campbell, as "Chief of the Criminal Division," may possess authority to direct how a prosecutor may proceed with a criminal case, an investigation into whether the allegations in the police report are true could also be relevant to the Committee's inquiry into whether Campbell has engaged in unauthorized practice of law and is fit for admission to the Bar.