



Robert is a graduate of such a law school, we reinstate Robert's application for regular admission, and shall permit him to sit for the July 2018 administration of the Virgin Islands Bar Examination.

## **I. BACKGROUND**

On May 1, 2018, Robert filed an application for regular admission to the Virgin Islands Bar. As part of his application, Robert submitted a Dean Certificate executed by the University of Massachusetts Dartmouth School of Law, along with an official transcript. The Dean Certificate stated that Robert attended the Southern New England School of Law from August 2006 through May 2010 and graduated with a Juris Doctor degree. However, the University of Massachusetts also provided a statement explaining that Southern New England School of Law ceased operations on July 1, 2010, and that the University of Massachusetts assumed control of the school at that time. Although the University of Massachusetts obtained accreditation by the American Bar Association in June 2012, the former Southern New England School of Law had never obtained such accreditation. However, the University of Massachusetts further stated that “[t]he only significant changes to the curriculum [Robert] completed and our current approved ABA curriculum is a Pro-Bono 30 hour requirement and a 90 credit degree requirement versus 89 credits.”<sup>1</sup>

In a May 16, 2018 memorandum, the Committee notified Robert that it would not permit him to take the Virgin Islands Bar Examination. Specifically, the Committee found “that Southern New England School of Law was not accredited by the American Bar Association during its period of operations, including the date that [Robert] graduated with [his] Juris Doctor Degree as required

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<sup>1</sup> In his motion, Robert states that although it was not a requirement at the time he attended the school, he “elected to complete more than 40 hours per week for 8 weeks in pro-bono internship work with the Massachusetts Department of Children and Families in the summer before graduation.”

by VISCR 204(d)(5).” While it acknowledged that the University of Massachusetts Dartmouth School of Law subsequently received full accreditation from the American Bar Association, the Committee found that this “accreditation was not retroactive to prior graduating classes of Southern New England School of Law.”

Robert filed a motion with this Court on June 11, 2018, requesting that this Court permit him to sit for the Virgin Islands Bar Examination by equitably waiving the requirements of Supreme Court Rule 204(d)(5). To support his request, he emphasizes that the University of Massachusetts Dartmouth School of Law is the successor to Southern New England School of Law, that the school obtained accreditation from the American Bar Association two years after his graduation with only minimal changes to the curriculum, and that he was admitted to the Massachusetts Bar after successfully passing the Massachusetts Bar Exam in 2014. On June 13, 2018, the Committee filed a response to Robert’s motion, in which it advised the Court that its position on the matter is the same as previously stated in its May 16, 2018 memorandum.

## **II. DISCUSSION**

This Court has exclusive jurisdiction to regulate admission to the Virgin Islands Bar. V.I. CODE ANN. tit. 4, § 32(e); *In re Application of Shea*, 59 V.I. 552, 556 (V.I. 2013). Although the Committee of Bar Examiners serves as an arm of the Court and assists it in performing this function, this Court is not bound by any of its findings, for it is ultimately this Court which makes the final determination as to whether the requirements for admission have been met. *Id.* (quoting *V.I. Bar v. Bruschi*, 49 V.I. 409, 412 (V.I. 2008)).

In his motion, Robert couches his argument in terms of equitable waiver, a doctrine this Court previously recognized which allows it to waive its own bar admissions rules in extraordinary cases. *In re Application of Payton*, S. Ct. BA. No. 2007-0146, 2009 V.I. Supreme LEXIS 17, at

\*14 (V.I. Mar. 20, 2009) (unpublished). However, an equitable waiver of a bar admissions rule is highly disfavored, since not only do such requests place a high administrative burden on this Court, but “case by case consideration of waivers invites the risk of disparate treatment of similar cases, and thus carries its own potential for unfairness.” *Id.* (quoting *Teare v. Comm. on Admissions*, 566 A.2d 23, 31 (D.C. 1989)). Therefore, this Court will exercise its equitable waiver power only as a last resort, in cases where “the rules operate in such a manner as to deny admission to a petitioner arbitrarily and for a reason unrelated to the essential purpose of the rule.” *Id.* at \*15 (quoting *Bennett v. State Bar*, 746 P.2d 143, 145 (Nev. 1987)).

“In order to effectuate the purpose and objectives of [a] rule, we look to its plain text.” *Johnson v. State*, 757 A.2d 796, 804 (Md. 2000). Supreme Court Rule 204(d)(5) provides, in pertinent part, as follows:

Each applicant for regular admission must allege and prove to the satisfaction of the committee that the applicant is:

....

5. A graduate of an accredited law school approved by the American Bar Association.

V.I.S.Ct.R. 204(d)(5). Robert, in requesting an equitable waiver of this rule, presupposes that the Committee interpreted the rule correctly when it held in its May 18, 2018 memorandum that he did not satisfy this requirement. However, we do not believe that this is the case.

While the Committee focused on whether the former Southern New England School of Law was accredited at the precise moment that Robert graduated, the plain text of Rule 204(d)(5) contains no such requirement. Rather, the rule requires only that one be “[a] graduate of an accredited law school approved by the American Bar Association.”

It is undisputed that Southern New England School of Law and the University of Massachusetts Dartmouth School of Law are the same law school, with the University of

Massachusetts assuming control of the Southern New England School of Law as a result of a negotiated merger and changing its name.<sup>2</sup> In fact, the University of Massachusetts Dartmouth School of Law grants membership to its alumni association—as well as the larger University of Massachusetts alumni association—to graduates of the Southern New England School of Law, further establishing that they are the same law school, and not simply a matter of Southern New England School of Law closing and the University of Massachusetts opening a completely new law school on the same campus.<sup>3</sup> And perhaps most importantly, the University of Massachusetts Dartmouth School of Law itself has represented in its letter to the Committee that its current curriculum is substantially the same as that Robert had completed while enrolled at the former Southern New England School of Law, with the only differences being a 30-hour mandatory pro bono requirement (which it appears Robert undertook on a voluntary basis during a summer break) and a one-credit hour increase.

It is also undeniable that this law school is “an accredited law school approved by the American Bar Association.” The law school obtained approval from the American Bar Association in June 2012 and maintained it ever since. And it is irrefutable that Robert is a “graduate” of this law school, having earned his Juris Doctor degree from there in May 2010. Therefore, we conclude that Robert has satisfied the plain text of Rule 204(d)(5), in that he is a graduate of an accredited

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<sup>2</sup> Even the American Bar Association has characterized the process that led to the creation of the University of Massachusetts Dartmouth School of Law as “a merger of the unaccredited Southern New England School of Law with the University of Massachusetts.” Debra Cassens Weiss, *Southern New England-Turned-UMass Law School Gets 400 Applications*, ABA Journal, [http://www.abajournal.com/news/article/southern\\_new\\_england-turned-umass\\_law\\_school\\_gets\\_400\\_applications/](http://www.abajournal.com/news/article/southern_new_england-turned-umass_law_school_gets_400_applications/) (May 27, 2010), *archived at* <https://perma.cc/UC2C-JTVQ>.

<sup>3</sup> UMass Law, Alumni & Friends, <https://www.umassd.edu/law/alumni/>, *archived at* <https://perma.cc/Y97Y-MA5T>.

law school approved by the American Bar Association. To the extent this Court intended to impose the additional requirement that the law school be accredited at the time of applicant's graduation, it would have included specific language stating so within the rule itself, as most other jurisdictions have done. *See, e.g., In re Proposed Amendments to the Rules of the Supreme Court Relating to Admission to the Bar*, 873 So.2d 295 (Fla. 2004) (noting that the Florida Bar's accreditation requirement is "more generous than the rule in the vast majority of the jurisdictions" because "[a] majority, thirty-six, of these jurisdictions specifically require that their bar applicants must be graduates of a law school that has been accredited by the ABA *at the time of graduation.*") (emphasis in original); *Matter of Corliss*, 675 N.E.2d 398, 399 (Mass. 1997) (noting that the rule for admission on motion to the Massachusetts Bar provides that the applicant shall have "graduated from a law school *which at the time of graduation* was approved by the [American Bar Association].") (emphasis added).

Because Robert earned his Juris Doctor from the Southern New England School of Law, and that institution is now accredited by the American Bar Association, he has satisfied the educational requirement set forth in Supreme Court Rule 204(d)(5). Therefore, we direct that Robert be permitted to sit for the July 2018 administration of the Virgin Islands Bar Examination. Because Robert satisfies the requirements of Rule 204(d)(5), an equitable waiver of the rule is not necessary, and his motion for equitable waiver shall therefore be denied as moot. We emphasize to both Robert and the Committee of Bar Examiners that our decision herein is limited solely to whether Robert has satisfied the requirements of Rule 204(d)(5) and should not be construed as a holding that Robert has satisfied any other requirement for admission, including that he demonstrate that he is a person of good moral character. *See V.I.S.Ct.R. 204(d)(3)*.

### **III. CONCLUSION**

For the foregoing reasons, we conclude that Robert has satisfied the educational requirement codified in Supreme Court Rule 204(d)(5). Since Robert meets this requirement, we deny his motion for equitable waiver as moot. Accordingly, Robert may sit for the July 2018 administration of the Virgin Islands Bar Examination.

**Dated this 15<sup>th</sup> day of June, 2018.**

**ATTEST:**

**VERONICA J. HANDY, ESQ.**  
**Clerk of the Court**