

Alabama Rules of Disciplinary Procedure

Rule 28.

Reinstatement.

(a) *Prohibition of Practice.* A lawyer who has been disbarred by consent or after hearing, or who has been suspended for more than ninety (90) days, or who has been placed on disability inactive status pursuant to Rule 27 of these Rules, or who has voluntarily surrendered his or her license, shall not resume the practice of law until reinstated by order of the Disciplinary Board, the effective date of which shall be established by the Alabama Supreme Court.

(b) *Time of Reinstatement.* A lawyer who has been suspended for more than ninety (90) days may not apply for reinstatement until the period of suspension has terminated. A lawyer who has been disbarred by consent or after hearing, or who has surrendered his or her license, may not apply for reinstatement until the expiration of at least five (5) years from the effective date of the disbarment or surrender of license. A lawyer on disability inactive status may apply for reinstatement pursuant to Rule 27(g) of these Rules.

(c) *Petitions for Reinstatement.* Petitions for reinstatement shall be filed with the Disciplinary Clerk of the Alabama State Bar and served upon the General Counsel and shall be in the form and contain the material specified in Appendix "A" to these Rules. A petition that does not substantially comply with the form specified in Appendix "A" or that does not contain the information and documents specified in Appendix "A" or that does not contain satisfactory proof of compliance with the provisions of Rule 26 of these Rules shall constitute prima facie evidence that the petitioner has not met the burden of proof required for reinstatement under this rule, and the petition shall be summarily denied. Upon receipt by the Disciplinary Board of a petition that substantially complies with Appendix "A," a Disciplinary Hearing Officer shall promptly set the petition for a hearing. At the hearing, the petitioner shall have the burden of demonstrating by clear and convincing evidence that he or she has the moral qualifications to practice law in this state and that his or her resumption of the practice of law within the state will not be detrimental to the integrity and standing of the Bar or the administration of justice, and will not be subversive to the public interest. Proof of compliance with the provisions of Rule 26 of these Rules shall be a condition precedent to consideration of a petition for reinstatement.

(d) *Proceedings.* In all proceedings upon a petition for reinstatement, cross-examination of the petitioner's witnesses shall be conducted by the General Counsel, and evidence in opposition to the petition, if any, shall be submitted by the General Counsel.

(e) *Costs.* Petitions for reinstatement under this rule shall be accompanied by an advance cost deposit in an amount to be set from time to time by the Disciplinary Board

to cover anticipated costs of the reinstatement proceedings. All costs associated with the reinstatement proceeding must be paid by the petitioner within thirty (30) days of the conclusion of the reinstatement hearing. In the event the petitioner's reinstatement is denied, the petitioner shall not be eligible to petition for reinstatement until all costs of the prior reinstatement proceeding have been paid.

(f) *Publication of Petition.* Notice that a person has applied for reinstatement may be published in a newspaper of general circulation in the city or county of residence of the petitioner or in the judicial circuit or circuits in which the petitioner last practiced, or both, and may be published to the local bar association, inviting the public and the local bar to provide any information relevant to the qualifications of the petitioner.

(g) *Approval or Denial of Petition.* If the petitioner is found unfit to resume the practice of law, the petition shall be denied. If the petitioner is found fit to resume the practice of law, the order of the Disciplinary Board shall reinstate him or her; provided, however, that the order may make such reinstatement conditional upon any or all of the following:

- (1) Restitution (partial or complete), with or without interest, to parties harmed by the petitioner's misconduct, whether or not the obligation has been discharged in bankruptcy or by operation of law;
- (2) Payment of all or part of the costs of reinstatement proceedings but not lawyer's fees;
- (3) Probation or limitation upon practice as provided by Rule 8 and Rule 21 of these Rules;
- (4) Appointment of a probation supervisor, monitor, or trustee or receiver;
- (5) Proof of passage of the bar examination, the professional responsibility examination, or both, or any other proof of competency deemed appropriate by the Disciplinary Board;
- (6) Attendance at a continuing legal education course or courses in addition to the annual mandatory continuing legal education requirement; and
- (7) Any other requirement that the Disciplinary Board deems appropriate.

(h) *Effective Date.* No petitioner shall be reinstated to the practice of law in the State of Alabama until the effective date of reinstatement as is established by order of the Alabama Supreme Court.

(i) *Reapplication.* No petition for reinstatement under this rule shall be filed within one year following an adverse order of the Disciplinary Board, which has become final,

on a petition for reinstatement filed by or on behalf of the same person.

(j) *Appeal*. Either party may appeal the decision of the Disciplinary Board pursuant to Rule 12(f). Whether the action of the Disciplinary Board will be stayed during the appeal is within the discretion of the body considering the appeal.

(k) *Notice*. Upon reinstatement, the Disciplinary Board shall transmit notice of such reinstatement to all parties to whom notice of discipline or transfer to disability inactive status were sent under Rule 30 of these Rules.

[Amended eff. 8-1-97; Amended eff. 8-1-2000; Amended 9-12-2008, eff. 10-6-2008; Amended 9-20-2016, eff.1-1-2017; Amended eff. 8-16-2017.]

Note from the reporter of decisions: The order amending Rule 28(c) and (i), effective August 1, 2000, is published in that volume of *Alabama Reporter* that contains Alabama cases from 753 So.2d.

Note from the reporter of decisions: The order amending Rule 4, Rule 4.1, Rule 4.2, Rule 5, Rule 8, Rule 12, Rule 15, Rule 20, Rule 21, Rule 22, Rule 23, Rule 27, Rule 28, Rule 29, Rule 32, Rule 33, and Rule 35, and adopting Rule 12.1, effective October 6, 2008, is published in that volume of *Alabama Reporter* that contains Alabama cases from 994 So.2d.

Note from the reporter of decisions: The order amending Rule 8(a) and (b), Rule 10(a) and (b), Rule 17(f), Rule 18, Rule 26(h)(2), Rule 28(e), and Appendix A, Ala. R. Disc. P., effective January 1, 2017, is published in that volume of *Alabama Reporter* that contains Alabama cases from ____ So. 3d.

Note from the reporter of decisions: The order amending Rule 4.2(b)(6) and Rule 28(c), Ala. R. Disc. P., effective August 16, 2017, is published in that volume of *Alabama Reporter* that contains Alabama cases from ____ So. 3d.