



The State Bar *of California*

The Role of Rehabilitation in Moral Character Determinations

David Lane, Attorney, Moral Character Determinations



No Act of Misconduct Precludes Admission in California, Given a Sufficient Showing of Rehabilitation

- Reformation and regeneration are open to anyone. (*In re Andreani* (1939) 14 Cal.2d 736, readmission case)
- *March v. Committee of Bar Examiners* (1967) 67 Cal.2d 718 (moral character case)
- Not true in all jurisdictions



Sufficient Rehabilitation

- No longer the same person
- Change in outlook
- Proportionality: the more significant the misconduct, the stronger the showing of rehabilitation
 - Moral turpitude?
 - Pattern vs. isolated incident
 - Age/education at time of misconduct



Evidence of Rehabilitation

- Typically involves:
 - No further misconduct
 - Acknowledgement of wrongdoing (candor)
 - Restitution
- Examples of other evidence:
 - Character references
 - Attending college/law school
 - Ethics School, Client Trust Account School



Rehabilitation Following Serious Misconduct

- Serious misconduct requires a truly compelling demonstration of rehabilitation; overwhelming proof of reform.
- When there is serious misconduct, positive inferences about the applicant's character are harder to draw.
- Substantial period of exemplary conduct following misconduct:
 - Measured from last act of misconduct, until submission of application (not under community supervision)
 - Giving back to the community that was harmed



In re Menna (1995)

- Misconduct: disbarred in NJ, felony convictions for theft of client funds, failure to file taxes, drug manufacturing, compulsive gambling, excessive alcohol use
- Rehabilitation: psychiatric treatment, ~30 character references, 5.5 years since serious misconduct
- Little effort to repay; insufficient time given misconduct



In re Gossage (2000)

- Misconduct: felony forgery, drug abuse, voluntary manslaughter conviction, DUIs, drug possession, forgery, incomplete application
- Rehabilitation: community service, political campaigns, expert testimony, ~20 character references, 9.5 years since serious misconduct
- Submitted application 6 months after last misdemeanor



Pacheco (1987)

- Misconduct: counseled witness on how to avoid subpoena, misconduct as CHP officer (e.g., improper storage of evidence), suspect loan practices, lack of candor in prior proceedings
- Rehabilitation: ~20 character references, 10 years as PI with no misconduct, community projects, ~7 years since significant misconduct