

IN THE COURT OF APPEALS OF MARYLAND

Misc. No. 16

September Term, 1996

---

IN THE MATTER OF THE APPLICATION OF  
JOHN CURTIS DORTCH FOR ADMISSION TO  
THE BAR OF MARYLAND

---

\*Murphy, C.J.  
Eldridge  
Rodowsky  
Chasanow  
Karwacki  
Bell  
Raker,

JJ.

---

Concurring Opinion by Raker, J.,  
in which Rodowsky, J., joins.

---

Filed: January 6, 1997  
\*Murphy, C.J., now retired,  
participated in the hearing and  
conference of this case while an  
active member of this Court; after  
being recalled pursuant to the  
Constitution, Article IV, §3A, he  
also participated in the decision

and adoption of this opinion.

Seventeen years ago, Judge Marvin Smith asked "Do my colleagues propose permitting convicted murderers to become Maryland lawyers since they have not killed anyone lately?" *In re Application of A.T.*, 286 Md. 507, 518, 408 A.2d 1023, 1029 (1979) (Smith, J., dissenting). The answer to that question is "maybe."

Today, the Court holds that because Petitioner, a convicted murderer of a police officer, is still on parole, his "petition is therefore premature and is denied. He is free to file a new petition for admission if, and when, he is released from parole supervision." Maj. op. at 16. In so holding, the Court suggests that if Petitioner's parole were to be terminated tomorrow, he *might* be admitted. In contrast, I would deny his petition for admission to the Bar because he has not proven by clear and convincing evidence that he possesses the requisite present moral character to be admitted to the Bar of this State. See *In re Application of James G.*, 296 Md. 310, 314, 462 A.2d 1198, 1200-01 (1983). Six short years since Petitioner has been released from prison for second degree murder is an insufficient amount of time for us to find that he has satisfied his very heavy burden to establish that "he has so convincingly rehabilitated himself that it is proper that he become a member of a profession which must stand free from all suspicion." *In re Application of Allan S.*, 282 Md. 683, 690, 387 A.2d 271, 275 (1978); *In re Application of George B.*, 297 Md. 421, 422, 466 A.2d 1286, 1286 (1983) (six years between release from prison and application for admission is "of

insufficient duration, considering the gravity of the offense committed"); see also *In re Polin*, 596 A. 2d 50, 54 n.5 (D.C. 1991).

It appears to me that Petitioner has not accepted responsibility for the crimes for which he was convicted. In his application to law school, dated August 6, 1990, after he served 15 years in prison, he characterized his murder conviction as an "injustice," an "abortion of justice," and one that was based on perjurious testimony by police officers. Petitioner's response to question 39D on his application to law school is indicative of his lack of responsibility, and reflects the following:

Q. Describe a specific personal experience in which you were subjected to or witnessed some significant form of injustice. How did you deal with it? How do you think you should have dealt with it?

A. I am an ex-offender, and I have witnessed and experienced improprieties in the administration of justice. By virtue of a guilty plea, I was convicted of second degree murder, attempted bank robbery, and conspiracy, and I served fifteen years in prison. I did not kill anyone nor did I attempt to kill anyone nor was I present at the scene of the homicide, but the alleged factual basis for my plea was predicated upon the felony murder concept, which stipulates that each conspirator is equally accountable for every and anything that transpires in the furtherance of a felony, even though he may not participate in the overt act. The injustice that I suffered was at the hands of both the defense counsel, whom I paid in advance, and the prosecution which condoned, if not encouraged, the perjurious testimonies of the complaining officers.

However, I am not bitter, because I did break the law, but not to the extent to which I was charged and prosecuted. The bottom line is that I did break the law, and had not I broken the law, I would not have been

vulnerable to an abortion of justice.

I need not restate the facts surrounding this horrendous crime, committed when Petitioner was almost thirty years of age. It is significant to note, however, that Petitioner was the mastermind of an eight-person conspiracy to rob the Columbia Federal Savings and Loan. He went to the bank, armed with two loaded, sawed-off shotguns and two loaded revolvers. Although it was the bullet of his co-conspirator that killed Police Officer Gail Cobb, Dortch was obviously prepared to use deadly force to accomplish the goals of his criminal venture.<sup>1</sup>

Dortch was convicted of felony murder, attempted bank robbery and conspiracy. He was sentenced to prison for fifteen years to life, and released on parole in 1990. He graduated from law school in May, 1994, and applied for admission to the Maryland Bar in December, 1994. The Board of Law Examiners referred Petitioner's application to the Character Committee for the Sixth Judicial Circuit. Following an evidentiary hearing, the Committee recommended, by a 6-1 vote, that Petitioner be admitted to the Bar of Maryland. The State Board of Law Examiners decided that a formal hearing on the record on his fitness to practice law was

---

<sup>1</sup> Petitioner testified at the hearing before the Character Committee of the Court of Appeals of Maryland for the Sixth Judicial Circuit that he envisioned firing "at most a warning shot, if any at all, a warning shot or something to get people's attention." It is patently obvious that sawed off shotguns are particularly deadly when fired, are not used for the purpose of firing warning shots.

unnecessary and instead conducted an informal hearing.<sup>2</sup> *Cf. In re Polin*, 596 A.2d 50, 55 n.7 (D.C. 1991) (noting that when applicant has committed a felony or other serious crime, committee should conduct an independent investigation into applicant's behavior). While the Board's finding that the applicant possesses the requisite moral character is entitled to great weight, this Court must make its own independent evaluation of the applicant's present moral character. *In re Application of Allan S.*, 282 Md. 683, 690-91, 387 A.2d 271, 276 (1978). The ultimate decision regarding admission to the Bar rests with this Court. *Id.* at 689, 387 A.2d at 275.

I recognize that this Court has joined with the majority of States in holding that there is no *per se* rule excluding all convicted felons from the bar. See Maureen M. Carr, *The Effect of Prior Criminal Conduct on the Admission to Practice Law: The Move to More Flexible Admission Standards*, 8 GEO. J. LEGAL ETHICS 367, 382-83 (describing majority approach of a presumptive disqualification for bar applicants convicted of a crime). Nonetheless, I believe

---

<sup>2</sup> In my view, under the circumstances of the this case, the Board of Law Examiners should have held a formal hearing. The mere fact that a convicted murderer produces exemplary character references and has not committed a criminal act since his release from prison does not warrant an informal, off-the-record hearing by the Board of Law Examiners. In fact, all this Court knows about Petitioner is the information he chose to present. For example, we know little, if anything, about the business operation he headed in 1974, and the facts surrounding the sale of securities, which, at oral argument, Petitioner indicated were unregistered.

there are some crimes which are so serious that a *sufficient* showing of rehabilitation may be impossible to make. If any crime fits within that category, it is the murder of a police officer during the course of an attempted armed robbery of a bank. In this regard, the Supreme Court of New Jersey stated:

An applicant's attitude and behavior subsequent to disqualifying misconduct must demonstrate a reformation of character so convincingly that it is proper to allow admission to a profession whose members must stand free from all suspicion. The more serious the misconduct, the greater showing of rehabilitation that will be required. . . . However, it must be recognized that in the case of extremely damning past misconduct, a showing of rehabilitation may be virtually impossible to make. In all cases, the need to ensure the legitimacy of the judicial process remains paramount.

See *In re Matthews*, 94 N.J. 59, 462 A.2d 165, 176 (1983) (citations omitted). Murder, armed robbery, and conspiracy certainly qualify as "extremely damning past misconduct," thus making Petitioner's burden very heavy.

While agreeing with this Court that there is no litmus test to determine whether an applicant possesses good moral character, the District of Columbia Court of Appeals, in *In re Manville*, 494 A.2d 1289, 1296-97 (D.C. 1985) (*Manville I*), identified a list of factors the court found instructive in assessment of the moral fitness of applicant "whose backgrounds are tainted by criminal convictions." Those factors, intended to be illustrative and not exhaustive, read:

1. The nature and character of the offenses committed.

2. The number and duration of offenses.
3. The age and maturity of the applicant when the offenses were committed.
4. The social and historical context in which the offenses were committed.
5. The sufficiency of the punishment undergone and restitution made in connection with the offenses.
6. The grant or denial of a pardon for offenses committed.
7. The number of years that have elapsed since the last offense was committed, and the presence or absence of misconduct during that period.
8. The applicant's current attitude about the prior offenses (e.g., acceptance of responsibility for and renunciation of past wrongdoing, and remorse).
9. The applicant's candor, sincerity and full disclosure in the filings and proceedings on character and fitness.
10. The applicant's constructive activities and accomplishments subsequent to the criminal convictions.
11. The opinions of character witnesses about the applicant's moral fitness.

*Id.* at 1296-97 (footnotes omitted). At best, this applicant satisfies only three the eleven factors, specifically numbers 9, 10 and 11. He fails to satisfy his heavy burden.

Moreover, the Court's ruling gives insufficient weight to the integrity of the legal system. In the related area of attorney discipline, we have consistently noted that the purpose of disciplining attorneys is to protect the public. *Attorney Griev. Comm. v. Breschi*, 340 Md. 590, 601, 667 A.2d 659, 665 (1995). The public's interest is not served by the admission of a convicted

murderer, a person who has demonstrated the most profound disregard for the law and for human life.

Not only must we be concerned with protecting the public, but we must also consider the public's respect for and confidence in the judicial system. I agree with the sentiments of Judge Terry on the District of Columbia Court of Appeals in *In re Manville*, 538 A.2d 1128, 1139 (D.C. 1988) (*Manville II*) (Terry, J., dissenting):

The bar process is not . . . akin to the penal system where rehabilitation is one of the primary interests. The admissions process is aimed at selecting not only those persons who will honestly and competently handle their clients' interests, but also those persons who will not diminish respect for the legal profession as an institution . . . . Certainly the crimes involved here, murder, attempted armed robbery, and drug sales, are precisely the type of crimes which are serious enough to engender such public repugnance that admitting a person convicted of such a crime would seriously damage public confidence in the bar.

A person convicted of the murder of a police officer, attempted armed robbery, and conspiracy will not "inspire the public confidence necessary to the proper performance of the duties of an attorney at law." *In re Prager*, 422 Mass. 86, 661 N.E.2d 84, 94 (1996) (quoting *In re Keenan*, 50 N.E.2d 785 (Mass. 1943)). The murder of a police officer, attempted armed robbery of a bank, and conspiracy rank among the most serious and repugnant crimes. I believe Dortch's admission to the Bar would be detrimental to the integrity of the Bar and the public interest.

It is ironic to note that if Petitioner were permitted to practice law in this State, and if he were to be called as a

witness in any judicial proceeding, his credibility could be impeached with his criminal convictions. See Maryland Rule 5-609; *State v. Giddens*, 335 Md. 205, 642 A.2d 870 (1994). In addition, he cannot vote in this State, MD. CONST. art. I, § 4, he cannot hold office in this State, MD. CONST. art. I, § 12, he cannot serve on a jury, Md. Code (1974, 1995 Repl. Vol., 1996 Cum. Supp.) § 8-207(b)(5) of Courts and Judicial Proceedings Article, and he cannot hold a liquor license, Md. Code (1957, 1996 Repl. Vol.) Art. 2B, § 10-103.

Finally, the past decisions of this Court fully support denying Dortch's application to the Bar without encouragement to reapply when and if he is released from parole. We have denied admission to applicants who have committed much less serious crimes. In *In re David H.*, 283 Md. 632, 641, 392 A.2d 83, 88 (1978), we found a lack of good moral character based on five theft offenses over five years, the most serious of which involved breaking into a car and stealing a tape deck. Larceny pales in comparison to the taking of a human life during an armed robbery. See also *In re Application of G.S.*, 291 Md. 182, 433 A.2d 1159 (1981) (denial of admission following conviction for petty thefts).

If the Court's ruling even remotely suggests that Petitioner's application will be granted when his parole ends, then I cannot join the Court's opinion because Petitioner has not met, and indeed probably cannot meet, the heavy burden of proving good moral

character after the commission of a crime so heinous as this one.<sup>3</sup> If this Court's ruling means that we shall defer the decision on this petition with no intention of admitting Petitioner, then this ruling is unfair to Dortch as it holds out false hopes. *Cf. Marville I*, 494 A.2d at 1298 (Nebeker, J., dissenting) ("This court does the public, our bar, and our Admissions Committee an injustice when it hedges on these facts and orders further investigation."). This petition for admission to the Bar of Maryland should be denied, without any suggestion that Petitioner reapply when his parole is terminated.

I am authorized to state that Judge Rodowsky joins in the views expressed in this opinion.

---

<sup>3</sup> It makes no sense to me for the Court to devote sixteen pages merely to state that we will not consider the application until Petitioner is released from parole.