

**IN THE
SUPREME COURT
OF THE
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**

**IN RE THE APPLICATION OF
LINDA M. WINGENBACH**

SUPREME COURT NO. 2010-0009-ADM

Cite as: 2010 MP 5

Decided April 5, 2010

Jane Mack, Micronesian Legal Services Corp., for the Petitioner.

DEMAPAN, C.J.:

¶ 1 Attorney Linda Wingenbach began practicing law in the Commonwealth in 1992. She was employed by Micronesian Legal Services Corporation (“MLSC”) and practiced her first two years under 1 CMC § 3603. This section of the code grants MLSC attorneys limited bar admission provided they meet certain other criteria. In July 1994, Wingenbach sought and was granted full admission by petition to this Court under 1 CMC § 3601.¹ In 1995, Wingenbach’s employment with MLSC ended and she practiced law in the private sector until the year 2000, at which time she relocated to the State of Oregon.

¶ 2 Wingenbach returned to the Commonwealth and resumed her employment with MLSC in February 2010. From the time she left the Commonwealth in 2000 until the time she returned, Wingenbach did not pay bar dues, inactive or otherwise, in this jurisdiction. Likewise, she did not receive notification from the Commonwealth Bar Association or any Commonwealth court that her law license might have been in jeopardy as a result of her failure to pay dues.² According to the Commonwealth Bar Association, Wingenbach’s name last appeared on the bar roster in the year 2001. Upon resuming her post at MLSC, Wingenbach realized that she would not immediately be eligible to practice law in this jurisdiction, and has worked as a legal assistant for the director since her return. On March 26, 2010, Wingenbach and the director of MLSC petitioned this Court for reinstatement of her Commonwealth bar license so that she may again practice law.

¶ 3 The United States Supreme Court has held that the ability to practice law in any given jurisdiction is not a right, but a privilege. *Leis v. Flint*, 439 U.S. 438, 441 (1979). Article IV, section 9 of the Commonwealth Constitution confers upon the Chief Justice the power to promulgate rules and regulations concerning admission to and governance of the bar. Pursuant to this authority, the Supreme Court adopted the Commonwealth Rules of Admission in 1999.³ Section II(1) of the Rules recognizes and incorporates the statutory authority upon which Wingenbach was admitted. Specifically, it states:

Any person who was admitted to practice law before the courts of the Commonwealth pursuant to 1 CMC § 3601, 3602, and 3603 as of the effective date of these Rules . . . shall be entitled to practice before the courts of the Commonwealth according to the terms of admission then effective, until his/her

¹ At the time of Wingenbach’s admission to the bar, 1 CMC § 3601 had not yet been codified, but was cited then as Public Law 6-16.

² Wingenbach attested to this fact under penalty of perjury in her verified petition.

³ The Rules were subsequently amended in 2000, 2002, and 2007. None of these amendments are directly relevant to Wingenbach’s pending petition.

term of admission expires or unless otherwise suspended or terminated pursuant to the applicable Rules of the Supreme Court, or the Rules for the Integration of the CNMI Bar Association and its By-Laws.

NMI R. Admiss. II(1).

¶ 4 Wingenbach's admission to the bar in 1994 is not in question, but rather her present-day eligibility to practice law in light of her failure to maintain, or attempt to maintain, her Commonwealth law license for nearly a decade. The above provision allows a statutorily-admitted attorney to continue practicing law "until his/her term of admission expires or unless otherwise suspended or terminated pursuant to the applicable Rules of the Supreme Court, or the Rules for the Integration of the CNMI Bar Association and its By-Laws." *Id.* Accordingly, since Wingenbach's membership did not cease pursuant to a court rule, we must look to CNMI Bar Association regulations to ascertain the current status of Wingenbach's license.

¶ 5 The current version of the bar bylaws was adopted on December 26, 2006, thus the exact membership maintenance requirements and fee schedules therein were not in effect for approximately half of the period in question. However, the previous set of bylaws – adopted on June 8, 1989 – had similar requirements regarding payment of fees that were to be followed in order to maintain one's membership with the Commonwealth Bar Association. Differences in the older version include lower fee amounts, less precise notice requirements, and delegation of certain duties to the Presiding Judge rather than the Chief Justice. We therefore take this opportunity to decide the extent to which the current fee and account maintenance requirements apply to member activity – or lack thereof – that transpired prior to December 26, 2006.

¶ 6 Article 6 of the current bar bylaws governs membership fees and sets forth consequences for failure to pay in a timely manner. Section 3 of this article requires the secretary to send notice by the first day of November each year that annual fees are due on or before January 1. According to section 4, if a member has not paid his or her dues by January 31, the secretary shall provide notice to the member that his or her eligibility to practice law will be suspended within thirty days if the fees are not paid. If the member still has not paid at the passing of the additional thirty days, the bar president must notify the Chief Justice, who in turn is obligated to suspend the member's right to practice law. Section 6 then provides a six-month window for the member to apply for reinstatement upon meeting certain conditions. Section 7 holds that a member who has been suspended for six months without moving for reinstatement will be stricken from the roles, and that his or her membership will terminate. Upon termination, the bar president must notify the member via first class registered mail of the bar's actions.

¶ 6 As previously noted, Wingenbach's departure preceded the implementation of the above notice, suspension, and termination requirements. Nevertheless, seeing as though her name was

purged from the membership roster at some point during the year 2001, it is reasonable to assume that her membership terminated in accordance with the 1989 bylaws. If the current bylaws had been in place during the period in question, Wingenbach's membership would have likewise terminated in a similar fashion. Accordingly, while Section 8 of the current bylaws – governing reinstatement after termination – did not exist in its current form when Wingenbach's membership terminated, it is directly relevant to her pending petition. This section states, “[a] person whose right to practice law within the CNMI has been terminated may be reinstated only by the Chief Justice of the Commonwealth Supreme Court and upon such terms and conditions as the Court shall provide.” Thus, we must examine the facts and circumstances surrounding Wingenbach's petition and set forth appropriate terms and conditions of reinstatement.

¶ 7

In Wingenbach's favor is the fact that she never received any form of notification or warning that her name would be purged from the bar roster for failure to pay dues. In essence, she was not afforded the same protections that members are presently afforded or that she should have been afforded in 2001. Nevertheless, a reasonable attorney should know that inactive fees may be required in order to maintain one's association in a particular jurisdiction, as was the case here. After all, Oregon – an association in which Wingenbach is a member in good standing – and the Commonwealth have similar sets of fee requirements and suspension procedures. More importantly though, rules and procedures governing maintenance of one's membership were in effect in this jurisdiction at all relevant times. Taking these factors into account, Wingenbach must comply with the following conditions in order to be eligible for reinstatement under her 1994 license:⁴

- (a) Pay delinquent bar dues equivalent to that of an attorney with inactive status for the period of 2001-2010;
- (b) Submit letters of good standing from any other jurisdiction(s) in which she is licensed; and
- (c) Pay a \$200 reinstatement fee as required by Article 6, Section 6(b) of the bar bylaws.

SO ORDERED this 5th day of April 2010.

/s/

MIGUEL S. DEMAPAN
Chief Justice

⁴ These reinstatement conditions should not be construed as fixed conditions for similarly situated attorneys who may apply for reinstatement in the future. Rather, the holding herein is limited to the proposition that, while there may be perceived gray areas in past maintenance requirements, article 6, section 8 of the 2006 bylaws applies to future applicants subject to lawful amendment of the bar bylaws.