

STATE OF NORTH CAROLINA
COUNTY OF WAKE

BEFORE THE COUNCIL
OF THE
NORTH CAROLINA STATE BAR
81 DHC 7

IN THE MATTER OF REINSTATEMENT)
)
OF) ORDER OF REINSTATEMENT
)
JOHN T. MORRISEY)

This cause coming on to be heard and being heard by the Council of the North Carolina State Bar on April 16, 1982, pursuant to Rule 25 (A) of Article IX of the Rules and Regulations of the North Carolina State Bar upon the Petition for Reinstatement to Practice Law filed by John T. Morrisey; and

It appearing that this matter was referred to a hearing committee of the Disciplinary Hearing Commission pursuant to Rule 25 (A) (3) which held a hearing on October 23, 1981 where evidence was presented and arguments heard with A. Root Edmonson representing the North Carolina State Bar and John T. Morrisey appearing pro se; and

It further appearing that said hearing committee made Findings of Fact and Conclusions of Law which the Council of the North Carolina State Bar hereby adopts as follows:

FINDINGS OF FACT

1. John T. Morrisey was duly licensed to practice law in the courts of the State of North Carolina on October 19, 1951, after having passed the Bar examination in August, 1951. Petitioner practiced law in North Carolina continuously for twenty-six (26) years until July 15, 1977.

2. The matters leading to the North Carolina State Bar's Order of July 15, 1977, consists of the following:

(a) John T. Morrisey was employed as Executive Director of the North Carolina Association of County Commissioners from September 1, 1965, until January 14, 1977 when his resignation became effective.

(b) On June 6, 1977, John T. Morrisey entered a plea of guilty in the Superior Court of Wake County to the charge of embezzlement

in violation of North Carolina general statutes and was sentenced to the State's prison system for a period of six (6) years. Of the six year term, John T. Morrissey was ordered to serve forty-five (45) days in active time and the remainder of the sentence was suspended for four (4) years during which time John T. Morrissey was placed on special probation and ordered to (1) comply with the rules and regulation of the North Carolina Probation Commission, (2) comply with the rules and regulations of the North Carolina Department of Correction, (3) not to violate any penal law of any state or federal government for four (4) years, (4) not practice law in the State of North Carolina or any other state or the District of Columbia, and (5) to pay a fine of Three Thousand Dollars (\$3,000.00) and the costs from his personal earnings and under the supervision of the Probation Officer.

(c) The basic facts which gave rise to the indictment, guilty plea and conviction of John T. Morrissey were that during the period of July, 1974 through January 14, 1977, John T. Morrissey committed financial improprieties in the management and conservation of the funds and monies of the North Carolina Association of County Commissioners including the misappropriation of some funds, the inability to properly account for others, improper charges to the account of the Association, and that John T. Morrissey was fully responsible for such misappropriated funds and unaccounted for funds which were alleged to total \$43,466.02.

3. John T. Morrissey resigned as Executive Director of the North Carolina Association of County Commissioners effective January 14, 1977. During the week of March, 1977, John T. Morrissey freely and voluntarily tendered and surrendered his license to practice law in North Carolina and further advised the North Carolina State Bar that he did not desire to contest the charges of alleged misconduct which were under investigation by the North Carolina State Bar.

4. Pursuant to the Superior Court's Order of June 6, 1977, John T. Morrissey was incarcerated in the North Carolina State Prison system for forty-five (45) days from June 6, 1977, until July 21, 1977.

5. On December 15, 1978, the Superior Court of Wake County, North Carolina entered an Order terminating the supervised probation as the same was not necessary.

6. Prior to May, 1980, John T. Morrissey paid in full the fine and court costs adjudged in the Superior Court action of June 6, 1977.

7. On May 21, 1980, the Superior Court of Wake County in the action of State of North Carolina v. John T. Morrissey, 77-CRS-28178 entered a final order terminating all probation and restored his rights of citizenship.

8. As a result of the actions of John T. Morrissey for the period of July, 1974 through January, 1977, as described above, John T. Morrissey voluntarily filed amended income tax returns for said periods; as a result thereof he was assessed with additional North Carolina state income taxes of slightly more than \$3,000.00 and Federal income taxes of almost \$13,000.00. John T. Morrissey is making regular monthly payments of \$100.00 to the North Carolina Department of Revenue and \$200.00 per month to the United States Internal Revenue Service. There is currently owed to the North Carolina Department of Revenue 3 additional payments of \$100.00 each after which his indebtedness to the North Carolina Department of Revenue will be paid in full. There is presently owed to the United States Internal Revenue Service a balance of approximately \$8,000.00 and which balance is being paid off at a rate of \$200.00 per month.

9. The funds of the North Carolina Association of County Commissioners were insured by the Great American Insurance Company and payment in full to the North Carolina Association of County Commissioners by said insurance company has been made.

10. In 1980 the Great American Insurance Company brought civil action against John T. Morrissey, for the amount of money it alleged was misappropriated or unaccounted for by John T. Morrissey in the amount of \$43,947.24. On June 23, 1981, a Notice of Dismissal was entered in the Superior Court of Mecklenburg County in the above-referred to action of Great American Insurance Company v. John T. Morrissey as the

matters in controversy between the Great American Insurance Company and John T. Morrissey were settled. In settlement of his obligations to Great American Insurance Company, John T. Morrissey executed a promissory note in the amount of \$20,000.00 to be paid in installments beginning October 10, 1981.

11. Since July 21, 1977, John T. Morrissey has been engaged in the following activities, gainful employment and volunteer services:

(a) July - August, 1977, real estate sales course was taken and successfully completed in Raleigh, North Carolina.

(b) September, 1977, real estate license was issued by the North Carolina Real Estate Licensing Board.

(c) October - November, 1977, Income Tax course taken and successfully completed.

(d) April, 1978, volunteered to serve in VISTA Program of United States Federal Government.

(e) August - October, 1978, engaged in VISTA service in Phoenix, Arizona in community outreach services.

(f) November, 1978 - September, 1979, involved in VISTA service in Charlotte, North Carolina, working with ex-convicts in job counselling, placement counselling, community relations and family organizations.

(g) December, 1979 - June, 1980, involved in VISTA services in Raleigh, North Carolina, with Offender Aid Restoration Program, planning and executing job fair and job training program for female inmates and ex-offenders.

(h) June 10, 1980, voluntarily terminated VISTA and volunteered services with Wake County District Attorney's office. His offer of volunteer service was accepted and he served in this capacity until August 15, 1980, receiving nominal compensation.

(i) August 15, 1980, was hired as clerk/receptionist in the Wake County District Attorney's office and now serves in that capacity. John T. Morrissey has also performed the duties of investigatorial assistant to the Wake County District Attorney.

12. Petitioner has adhered to every term of the Court's Order of June 7, 1977, and to the North Carolina State Bar's Order of July 15, 1977.

13. Special Superior Court Judge Donald L. Smith, the presiding judge who sentenced John T. Morrisey on June 6, 1977, and Randolph J. Riley, District Attorney for the 10th Prosecutorial District, who prosecuted John T. Morrisey, are uniquely qualified to judge the culpability of Petitioner's embezzlement offense. Both Judge Smith and Mr. Riley are also specially qualified to judge Morrisey's present moral qualifications through observation of Morrisey's conduct and social interaction as an employee in the District Attorney's office. Neither Judge Smith nor Mr. Riley expressed any reservations in recommending Mr. Morrisey's reinstatement. These witnesses fully appreciated the necessity of protecting the public's interests.

14. John T. Morrisey has been open and candid about his offense to his former employer, those investigating his offense, the Court, the public and to this Committee.

15. John T. Morrisey accepted full responsibility for all funds unaccounted for to the North Carolina Association of County Commissioners even though some of the funds were expended on behalf of the Association.

16. There is little likelihood that Petitioner, if reinstated, would commit any other serious offense.

17. Upon successful completion of both undergraduate and law school programs at the University of North Carolina at Chapel Hill, John T. Morrisey passed the North Carolina State Bar examination, was duly licensed. Petitioner exhibited competence through many years of experience in representing municipal or local governments or an association of same.

18. John T. Morrisey has the requisite competency and learning in the law to be licensed as an attorney in this State, as evidenced by the witnesses questioned by the Commission. Donald L. Smith, Special Superior Court Judge, J. Randolph Riley, District Attorney of the Tenth Prosecutorial District, and T. L. Odom Attorney of Charlotte, North

Carolina are of the opinion that John T. Morrissey has the requisite competency and learning in the law at this time to be licensed as an attorney in this State. Further, these witnesses expressed complete trust and confidence in the judgment and abilities of John T. Morrissey in legal matters and would have no hesitation retaining him as an attorney.

19. John T. Morrissey has demonstrated humility, honesty and openness by freely admitting that he was formerly an attorney who made a mistake, committed a criminal offense, was convicted of embezzlement, was disbarred, and has been volunteering and performing his services as an effort to make restitution to society for his offense above and beyond the monetary restitution, active sentence, probation and disbarment. As his own witness at the hearing, John T. Morrissey exhibited an attitude of admission of guilt, humility and a continued desire to rehabilitate himself, make complete restitution in every possible way, and to return to the practice of law if at all possible. His attitude and demeanor reflected what his actions since the offense have demonstrated: complete remorse, humility, and a sincere and diligent effort to make amends for his offense and to rebuild the character and reputation he enjoyed prior to 1977.

CONCLUSIONS OF LAW

1. Based upon the evidence presented by these witnesses who were uniquely qualified to judge John T. Morrissey's present moral fitness as balanced against Mr. Morrissey's culpability for the offense for which he was disbarred, Petitioner has successfully rebutted the presumption of unfitness raised by the seriousness of the offense for which he was disbarred.

2. Although John T. Morrissey was a mature experienced individual at the time of his offense, he has fully accepted responsibility for his wrongdoing and redirected his energies to exhibit his reform.

3. John T. Morrissey has occupied himself primarily in volunteer work and other employment of service to the public since his disbarment. His conduct, highly visible to defense lawyers and the general public

who have dealings with the office of the District Attorney, has been exemplary.

4. Only four and a half years has elapsed since John T. Morrisey's conviction of the serious offense of embezzlement. However, Petitioner has been able to exhibit reform during this period of time. To deny his reinstatement for the sole reason that not enough time has passed since disbarment would discourage future disbarred attorneys from similar efforts to achieve reformation.

5. John T. Morrisey's present competence and learning in the law is evidenced by his education qualifications, admission to practice law and by his many years of exhibited competence in the area of municipal and local government representation. Petitioner has demonstrated by clear, strong and convincing evidence, that he has the required moral qualifications, competency and learning in law and that the resumption of the practice of law within the State by the Petitioner will be neither detrimental to the integrity and standing of the Bar or the administration of justice nor subversive of the public interest.

Now, THEREFORE, IT IS HEREBY ORDERED that:

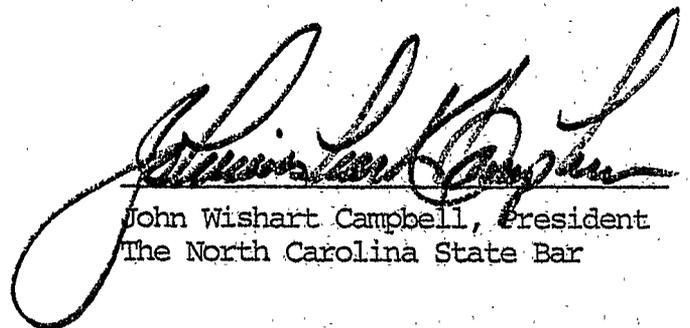
A. The license to practice law of John T. Morrisey be reinstated forthwith;

B. The Secretary is hereby directed to deliver to John T. Morrisey the Certificate of License now in possession of the Secretary; and

C. The Secretary is hereby directed to forward a copy of this Order to the Supreme Court of North Carolina, the North Carolina Court of Appeals, the Clerk of Superior Court of Wake County and any other courts previously notified of John T. Morrisey's disbarment.

D. John T. Morrisey be taxed with the costs of this proceeding as certified by the Secretary.

By Order of this Council of the North Carolina State Bar this 16th day of April, 1982.


John Wishart Campbell, President
The North Carolina State Bar

I, B. E. James, Secretary-Treasurer of the North Carolina State Bar do hereby certify that the above Order of Reinstatement was duly adopted by the Council of the North Carolina State Bar at its meeting on April 16, 1982,

Given over my hand and seal of the North Carolina State Bar this the 16th day of April, 1982.



B. E. James
Secretary-Treasurer
The North Carolina State Bar