***People v. Donald Arthur Brenner*. 15PDJ098. April 28, 2016**.

Following a reinstatement hearing, a hearing board denied Donald Arthur Brenner (attorney registration number 05692) reinstatement to the practice of law under C.R.C.P. 251.29. Brenner may not file another petition for reinstatement for two years.

In 2013, Brenner stipulated to violating the Colorado Rules of Professional Conduct in two separate client matters. Brenner represented one client who had been charged with unlawful sexual contact with an at-risk adult, and a second client who was charged with first-degree murder. In both matters, Brenner failed to adequately prepare for trial or diligently prepare his clients' cases. Courts later ruled that Brenner had provided ineffective assistance of counsel in both matters. He was suspended for one year and one day for his misconduct.

A hearing board denied Brenner's reinstatement petition because he failed to marshal clear and convincing evidence that he has been rehabilitated and that he is fit to practice law. Please see the full opinion below.

SUPREME COURT, STATE OF COLORADO ORIGINAL PROCEEDING IN DISCIPLINE BEFORE THE OFFICE OF THE PRESIDING DISCIPLINARY JUDGE 1300 BROADWAY, SUITE 250 DENVER, CO 80203	
Petitioner: DONALD ARTHUR BRENNER **Respondent:** THE PEOPLE OF THE STATE OF COLORADO	Case Number: **15PDJ098**
OPINION AND DECISION DENYING REINSTATEMENT UNDER C.R.C.P. 251.29(e)	

In 2013, Donald Arthur Brenner ("Petitioner") was suspended from the practice of law for one year and one day based on his misconduct in two client matters. In this reinstatement proceeding, Petitioner failed to present clear and convincing evidence that he is fit to practice law and has been rehabilitated, so his petition for reinstatement cannot be granted.

I. PROCEDURAL HISTORY

Petitioner, through his counsel, Craig L. Truman, filed a "Petition for Reinstatement Pursuant to C.R.C.P. 251.29(c)" on November 6, 2015. Kim E. Ikeler, Office of Attorney Regulation Counsel ("the People"), answered on November 10, 2015, opposing Petitioner's reinstatement.

On March 16, 2016, a Hearing Board comprising bar member Darla Scranton Specht, citizen member Michael B. Lupton, and Presiding Disciplinary Judge William R. Lucero ("the PDJ") held a reinstatement hearing under C.R.C.P. 251.29(d) and 251.18. Petitioner appeared with Truman, and Ikeler attended on behalf of the People. Petitioner testified at the hearing but no other witnesses were called, nor were any exhibits admitted.

II. FINDINGS OF FACT

The findings of fact here—aside from the sections describing Petitioner's disciplinary history—are drawn from Petitioner's testimony at the reinstatement hearing, where not otherwise noted.

Petitioner took the oath of admission and was admitted to the bar of the Colorado Supreme Court on October 16, 1974, under attorney registration number 05692. He is thus

subject to the jurisdiction of the Colorado Supreme Court and the Hearing Board in this reinstatement proceeding.[1]

Petitioner's Past Discipline

Petitioner has an extensive history of prior discipline. Petitioner was suspended for one month in 1988 when he made misrepresentations to clients concerning the services he had performed on their cases, neglected his clients' interests to their detriment, attempted to charge excessive legal fees, and attempted to retain improperly charged fees.[2] In 1991, he was privately admonished three times: once for failing to supervise his staff to ensure that his client's instructions regarding communication were followed, a second time for improperly soliciting clients, and a third time for his unauthorized endorsement and negotiation of an insurance check issued to his client and a third party.[3] In 1993, Petitioner was suspended for one year and one day for verbally abusing and threatening his client, who was shackled in a holding cell, and for giving false testimony to a hearing board.[4] He also received a private admonition in 1994 for threatening a client in a written communication.[5] He was reinstated to the practice of law in 1998 after petitioning for reinstatement from his 1993 suspension.

In 2013, Petitioner entered into a conditional admission of misconduct in case number 13PDJ033, agreeing that he had engaged in misconduct in two client matters—while representing Kenneth Epperson and while representing Juan Carlos Garcia—warranting a suspension of one year and one day.

In 2005, Petitioner defended Epperson in his first-degree murder trial. Petitioner only met with Epperson for a few hours in the months before the trial. During one of Petitioner's visits with Epperson, the two had a verbal altercation. Epperson thereafter wrote a letter to the district court complaining about Petitioner's abusive behavior. Petitioner did not request a hearing before a different judge to determine whether a conflict of interest had arisen between him and Epperson. Instead, the conflict of interest issue was heard by the judge assigned to the case. At the hearing, Epperson testified that Petitioner had told him that he would get life in prison. Epperson also claimed that Petitioner had tried to provoke Epperson into hitting him.

Prior to Epperson's trial, Petitioner failed to file an amended motion for the appointment of an investigator, as directed by the district court, and failed to file motions in limine to exclude testimony that was harmful to Epperson. Petitioner also did not hire an investigator, interviewed only three of the prosecution's thirty witnesses, failed to interview the Colorado Bureau of Investigations agent about Epperson's defense of accidental discharge of a firearm, failed to hire a firearm expert witness, and neglected to interview the

[1] *See* C.R.C.P. 251.1(b).
[2] Conditional Admission of Misconduct, case number 13PDJ033 (Aug. 28, 2013) at 9.
[3] Conditional Admission of Misconduct, case number 13PDJ033 (Aug. 28, 2013) at 9.
[4] Conditional Admission of Misconduct, case number 13PDJ033 (Aug. 28, 2013) at 9; *see People v. Brenner*, 852 P.2d 456, 458 (Colo. 1993).
[5] Conditional Admission of Misconduct, case number 13PDJ033 (Aug. 28, 2013) at 10.

prosecution's firearm expert witness. Without Epperson's permission, Petitioner also waived Epperson's right to a jury trial on the charge of possession of a firearm.

On April 12, 2005, Epperson's case proceeded to trial. During the trial, Petitioner did not adequately challenge the prosecution's evidence and called no witnesses other than Epperson. He also failed to request two jury instructions that might have benefitted Epperson. Epperson was found guilty on all counts and was sentenced to life in prison without parole. Through successor counsel, Epperson moved for a new trial based upon Petitioner's ineffective assistance of counsel. The district court ruled in Epperson's favor, finding that Petitioner had failed to adequately prepare for Epperson's trial and had represented Epperson in a manner that was below the standard of representation for defense counsel in a murder case.

In the Epperson matter, Petitioner's conduct violated Colo. RPC 1.1, which requires a lawyer to competently represent a client, and Colo. RPC 1.3, which requires a lawyer to act with reasonable diligence and promptness when representing a client. He also violated Colo. RPC 1.4(b), which requires a lawyer to explain a matter so as to permit the client to make informed decisions about the representation.

In 2010, Petitioner agreed to represent Garcia, who had been charged with unlawful sexual contact with an at-risk adult, a class-three felony, which included a sentence enhancement for Garcia's use of physical force upon the victim. This charge carried a possible indeterminate life sentence. In fall 2010, Garcia paid Petitioner $8,000.00. On September 29, 2010, Petitioner appeared with Garcia for a preliminary hearing, where Petitioner waived the hearing and forfeited any opportunity to cross-examine prosecution witnesses.

Petitioner did not file any motions in Garcia's case because he anticipated that Garcia would enter a plea bargain. Petitioner also failed to obtain a psychosexual evaluation of Garcia, failed to hire an investigator, and failed to interview witnesses and the victim. During the pretrial conference on April 1, 2011, Petitioner stated that he was not going to call any witnesses and had no theory of defense. Garcia informed the court that he did not want to proceed to trial with Petitioner as his counsel. Petitioner then orally moved to withdraw while assuring the court that he was prepared for trial. Petitioner told the court that Garcia had been evasive, had not paid his attorney's fees, had lied to Petitioner, was a flight risk, was afraid of conviction, and perhaps had mental problems. But after speaking with Petitioner in the hall, Garcia told the court that he was willing to proceed with Petitioner as counsel.

During the jury trial on April 4, 2011, Petitioner's opening statement was brief—perhaps one minute long. The victim's testimony did not establish that Garcia used physical force to restrain her. Petitioner did not cross-examine the victim about Garcia's lack of physical force, however, and Petitioner called no witnesses. The prosecutor proposed a special verdict form that expanded the charge levied against Garcia to include his use of physical force, which was a material change, especially in light of the victim's testimony that Garcia used no physical force. Petitioner did not object to this instruction. The jury found

Garcia guilty of unlawful sexual contact with an at-risk adult and third-degree assault of an at-risk adult.

Garcia's successor counsel moved for a new trial based on Petitioner's ineffective assistance of counsel. The district court found that Petitioner's representation of Garcia was ineffective and granted Garcia a new trial.

In the Garcia case, Petitioner violated Colo. RPC 1.1, Colo. RPC 1.3, and Colo. RPC 1.6, which precludes a lawyer from revealing information relating to the representation of a client unless the client gives informed consent.

Petitioner's Personal and Professional Background

Petitioner grew up in Highland Park, Illinois, and attended law school at the University of Kansas. He earned his law degree in 1973 and was admitted to the Colorado bar in 1974. After law school, Petitioner enlisted in the U.S. Army and was honorably discharged in 1978.

Petitioner then began working as an associate in a law firm specializing in appeals and criminal law. He was employed by the firm for only six months before his position was converted to that of an independent contractor because work "was slow." Petitioner remained an independent contractor there for the next six years. Thereafter, Petitioner went out on his own and shared an office with another lawyer. He focused his practice on criminal and labor law. After the office-share came to an end, Petitioner worked with another firm until his suspension from the practice of law in 1993. Once reinstated in 1998, Petitioner continued as a solo practitioner, practicing criminal and appellate law. He did not employ associate attorneys or staff but occasionally hired investigators for his criminal matters. He remained a solo practitioner until his 2013 suspension.

Petitioner's Testimony Regarding His Suspension

When reflecting on his misconduct in the Garcia and Epperson cases, Petitioner stated that he knows he did not represent these clients well, and he does not dispute any of the facts in his 2013 stipulation. Part of the problem with their representations, he believes, was that he practiced law in isolation, which he feels precluded him from speaking with other attorneys about whether to take those cases. For instance, Petitioner said that Epperson was an eight-time convicted felon whom Petitioner never should have agreed to represent. Additionally, Petitioner said, he never should have worked with underfunded clients because they were unable to pay for all of the work needed to mount a successful defense.

With twenty-twenty hindsight, he knows that he should have been more competent in representing Garcia and Epperson, including by taking better notes and not agreeing in the first instance to take on these cases without assistance. He stated that although he prepared "like crazy" in the Garcia matter, including completing a trial outline and legal research, he had no control over his client. By way of example, Garcia refused to even meet with Petitioner at his office. Despite these difficulties, however, Petitioner realizes that he

never should have revealed client confidences to the court and instead should have advocated for Garcia. He admitted that he "messed up" in this case. He attested that looking back, he understands how he went wrong in these cases, and he assured the Hearing Board that similar conduct would not happen again.

Petitioner's Activities Since His Suspension

After Petitioner was suspended in 2013, he did some legal research work for other attorneys, though he provided no details about this work at the hearing. He claimed that it has been difficult to obtain other legal employment because he does not wish to reveal his suspension. From September 2013 through May 2015, Petitioner ran a radio show for Mile High Sports. Since retiring from this show, Petitioner has regularly volunteered with many organizations in the Denver area.[6] For instance, he volunteers at Semper Fi, where he works with disabled U.S. Marine veterans at a golf camp. As part of his duties there, he spends three days each summer on a golf course with the veterans, which he described as very intense and heartbreaking.

Petitioner also tutors children weekly for the Denver Bar Association's ("DBA") reading partners program. He currently tutors a third-grader and plans to continue his service with this organization indefinitely. After being reinstated to the practice of law, Petitioner desires to start an organization affiliated with the DBA that would partner children with retired attorneys to provide tutoring. This partnership would serve a great need, he believes.

Petitioner has been involved with politics throughout his career and is currently assisting a local district attorney and a state senator with their political campaigns. He would like to work on the forefront of these campaigns but is relegated to the background, which Petitioner believes is because his law license is suspended. A political advisor informed him that it could be detrimental to the candidates' campaigns if the public learned that these candidates were affiliated with a suspended lawyer. As a result, Petitioner feels as if he is walking on eggshells.

Petitioner's Testimony Regarding His Qualifications for Reinstatement

Petitioner hopes to regain his law license because he does not want to be known as a suspended lawyer and because he wants to help the public. According to Petitioner, "you are not a popular guy when you are suspended." He is fearful of telling potential employers and others about his suspension and is very concerned about his reputation in the legal community. Having such a mark on his record is akin to a scarlet letter, he said. Although it is important to Petitioner that he is known as a lawyer in good standing, he said, it is not important for him to practice law. He was adamant, in fact, that he will not take on criminal clients or practice litigation. He never wants to walk into a courtroom again, he said, not even county court. Petitioner said that he fears he would be disbarred if he did.

[6] *See also* Petitioner's Pet. for Reinstatement 2-3 (listing Petitioner's volunteer work at various organizations). The People did not contest this evidence.

Petitioner testified that he has cured the deficiencies—lack of competence, organization, and diligence—that led to his 2013 suspension and is qualified to practice law again. His averred that his rehabilitation hinges on being aware of his limitations. For instance, he knows that he "messed up" in Garcia's and Epperson's cases and, in the future, he will not practice criminal law unless he is assisting another lawyer. Also supporting his rehabilitation, he attested, were the in-depth legal autopsies he performed with his personal counsel on his clients' cases after his 2013 suspension. During that process, his counsel brought to his attention all of his shortcomings in Garcia's and Epperson's cases. As a result, he knows what he should have done to competently represent these clients.

Petitioner said that he has completed numerous continuing legal education ("CLE") courses since his suspension, as listed in his petition for reinstatement.[7] Many of the CLEs included ethics credits. None, however, addressed trial practice, the Colorado rules of procedure, or criminal law. Taking CLE courses in these subject areas would be futile, he said, because he is not going to practice law.

Despite earning numerous CLE credits during his suspension, Petitioner admitted that he is not fit to practice criminal law or to litigate. He argues, however, that his lack of fitness in these areas should not preclude his reinstatement because he vows to never again practice criminal law or to litigate. Criminal clients can "turn on you," he said, and he does not want to give them the opportunity to do so. During his long career as a solo practitioner, he said, he must have gotten "jaded" without realizing it, and he does not trust himself to meet alone with a client in a criminal matter. Nor does he want to practice litigation because it would be a "lose-lose situation." He truly believes, however, that no client would want to retain him because he has been suspended three times.

After being reinstated in 1998, Petitioner did return to practicing criminal law because he loved it, he said. Unlike then, he does not now see himself returning to the legal profession. He assured the Hearing Board that he no longer needs to generate an income from a law practice, as he received a substantial inheritance from his parents. In fact, he can live out his life without ever working again. His current health also limits his ability to practice law, he said. He has prostate issues, diabetes, dental problems, and hearing loss. These issues would preclude him from sitting through lengthy trials. Given his age, he stated, he can no longer withstand the rigors of a criminal or litigation practice.

Hypothetically speaking, if he were to get an "itch" to practice law again, he believes he could satisfy it by volunteering for a judge or for the American Civil Liberties Union ("ACLU"), conducting legal research, working on specific projects, or reviewing cases. If he were to represent clients again, he would hire a "task force" for each case, including a practice monitor and a mentor, whom he could compensate from his own savings. He also vowed never to be the lead attorney on any case.

Petitioner testified that, in essence, he is fit to practice law so long as certain conditions are in place. Petitioner is amenable to the Hearing Board placing formal

[7] *See* Petitioner's Pet. for Reinstatement 3 (outlining Petitioner's CLE credits).

conditions on his reinstatement, as he would "do anything to get reinstated." In fact, he testified, conditions placed upon his reinstatement would ensure protection of the public.

III. LEGAL ANALYSIS

To be reinstated to the Colorado bar, an attorney who has been suspended for longer than one year must prove by clear and convincing evidence that the attorney has complied with applicable disciplinary orders and rules, is fit to practice law, and has been rehabilitated.[8] Failure to prove even one requirement is fatal to a petitioner's reinstatement case.[9]

Compliance with Disciplinary Orders and Rules

An attorney who petitions for reinstatement must show compliance with disciplinary orders and rules. The People do not contest that Petitioner has complied with C.R.C.P. 251.28 and 251.29. They also agree that he has obeyed the PDJ's order of discipline in case number 13PDJ033 and paid all costs associated with that matter. Thus, we find that Petitioner has complied with all disciplinary orders and rules.

Fitness to Practice Law

The People do contest, however, that Petitioner is competent to practice law. Petitioner, in part, agrees. He admitted at the hearing that he has not demonstrated his competence to handle criminal or litigation matters. But his lack of competence is of no moment, according to Petitioner, because he will not practice law if reinstated. To ensure his competence and to protect the public, however, Petitioner suggests that the Hearing Board place an exoskeleton of conditions around him in the event that he represents clients in the future, including requiring a practice monitor and a mentor.

We agree with the People and find that Petitioner has not proved by clear and convincing evidence his fitness to practice law, even with conditions placed upon his reinstatement. Petitioner must affirmatively prove his fitness to practice law and must satisfy us that his reinstatement will not endanger the public. Although he claims to have completed a number of CLE courses, none of those courses addressed the deficiencies leading to his suspension. Further, he did not present testimony, affidavits, or letters from colleagues or supervisors to show that his volunteer positions or past employment have built on and developed legal skills, including competence and diligence.

Most important, Petitioner himself testified that he is not competent to resume the practice of law without the assistance of a team of lawyers and staff, and he thus asked the Hearing Board to place conditions upon his reinstatement. Although we are permitted to condition a lawyer's reinstatement upon compliance with any additional orders we deem appropriate,[10] the rules do not contemplate that an attorney can be rendered fit to practice

[8] C.R.C.P. 251.29(b).
[9] *See In re Price*, 18 P.3d 185, 189 (Colo. 2001).
[10] *See* C.R.C.P. 251.29(e).

law by conditions placed upon him or her after reinstatement. Rather, C.R.C.P. 251.29(b) specifically provides that a petitioner must prove clearly and convincingly that he or she "*is* fit to practice law."[11] Thus, we consider it a prerequisite to an attorney's reinstatement that the attorney is already fit to practice law. Any conditions placed upon an attorney's reinstatement are merely safeguards to ensure that an attorney continues to remain fit to practice.[12]

In short, the evidence Petitioner presented falls short of demonstrating that he possesses the competence or diligence necessary to practice law at this time. Our finding on this element renders Petitioner ineligible for reinstatement.[13] But we also address the deficiencies in his presentation concerning rehabilitation—deficiencies that leave us no choice but to deny his petition for reinstatement.

Rehabilitation

The Hearing Board cannot grant reinstatement simply upon a showing that Petitioner has engaged in proper conduct or refrained from further misconduct. Instead, we must look to whether he has experienced an overwhelming change in his state of mind such that he could be said to have undergone a regeneration.[14] In this analysis, we are guided by the leading case of *People v. Klein*, which enumerates several criteria for evaluating whether Petitioner has been rehabilitated.[15] These factors are: character; conduct since the imposition of the original discipline; professional competence; candor and sincerity; recommendations of other witnesses; present business pursuits; community service and personal aspects of Petitioner's life; and recognition of the seriousness of his previous misconduct.[16] The *Klein* criteria provide a framework to assess the likelihood that Petitioner will repeat his prior misconduct.

We first examine the factors of Petitioner's present business pursuits and professional competence. If reinstated, Petitioner anticipates that he will continue to assist political candidates with campaigns and will work with the DBA to start a tutoring program

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[11] Emphasis added.

[12] *See* C.R.C.P. 251.29(b), (c)(3), (c)(5); *In re Sather*, 3 P.3d 403, 417 (Colo. 2000) ("Because Sather's disciplinary record reflects a history of inappropriate conduct with regard to fees, Sather should demonstrate his fitness to practice before being reinstated.").

[13] *Price*, 18 P.3d at 189 ("Because the lawyer seeking reinstatement must prove that all three factors exist, a failure of proof on any one factor is fatal to the lawyer's reinstatement.").

[14] *See In re Cantrell,* 785 P.2d 312, 313 (Okla. 1989); *In re Sharpe*, 499 P.2d 406, 409 (Okla. 1972).

[15] 756 P.2d 1013, 1015-16 (Colo. 1988) (interpreting language of C.R.C.P. 241.22, which embodied an earlier version of the rule governing reinstatement to the bar).

[16] *Id.* at 1016. We note that the *Klein* decision relies upon an earlier version of the *Lawyers' Manual on Professional Conduct* (ABA/BNA) 101:3005, which listed the above factors for assessing the rehabilitation of lawyers seeking reinstatement. The current version of the manual sets forth a number of other factors to consider when evaluating a lawyer's rehabilitation and fitness: the seriousness of the original offense, conduct since being disbarred or suspended, acceptance of responsibility, remorse, how much time has elapsed, restitution for any financial injury, maintenance of requisite legal abilities, and the circumstances of the original misconduct, including the same mitigating factors that were considered the first time around. *Id*. at 101:3013. While some of these newly articulated factors are encompassed in our analysis, we do not explicitly rely on them to establish a framework for our decision.

pairing retired lawyers and students. He also might like to pursue a position with a judge or with the ACLU. Although he was adamant about not wanting to practice law if reinstated, he did not foreclose the possibility of acting as co-counsel or working with a team of lawyers while representing clients. While we adjudge Petitioner to be honest about his plan not to practice law in the foreseeable future, we have no mechanism—save for denial of his petition for reinstatement—to ensure that he does not practice law. Quite possibly he may later wish to begin representing clients, despite his declarations to the contrary, and we do not have confidence that the public would be protected should he decide to travel down this path. As noted above, we are not satisfied that Petitioner has maintained his professional competence during his suspension or that he is fit to practice law going forward, as he has completed very little work within the legal profession since being suspended. Additionally, his post-suspension work, including hosting a radio show and volunteer work, did not appear to permit Petitioner to adequately address his deficits. While he offered testimony about his volunteering with Semper Fi and the DBA reading partners program, he did not describe his duties or tasks or how he has strengthened his diligence or competence to practice law through this work. Further, he offered no testimony from his supervisors at any of the organizations where he volunteers, which might have lent support to Petitioner's claim of rehabilitation.

We turn next to Petitioner's personal life, community service, and conduct since his suspension. Petitioner's testimony about these factors demonstrates some progress toward rehabilitation. Although Petitioner discussed very little about his personal life, his active volunteering during his suspension appears to give him opportunities to contribute to the community and make a positive impact both on himself and on those whom he serves, and we commend him for making these valuable contributions.

Last, we consider together the factors of Petitioner's character, his candor and sincerity, and his recognition of the seriousness of his misconduct. Our analysis of Petitioner's character is directed toward determining whether he has addressed his shortcomings, since the imposition of discipline is necessarily predicated upon a finding of some shortcoming, whether it be a personal deficit, professional deficit, or environmental challenge.[17]

In Petitioner's case, his misconduct stemmed from certain professional deficits—namely, incompetence and lack of diligence while representing clients. Petitioner presented little evidence demonstrating that these professional deficits have been corrected during his suspension, nor did he offer any character witnesses to testify on his behalf. He purports to be rehabilitated because he is aware of the mistakes he made in the Garcia and Epperson cases. He testified that he has learned the importance of competence and diligence after thoroughly reviewing his past case files, but he did not offer any evidence to corroborate his testimony. While he assures us that his misconduct will not reoccur, he relies for support not so much on a change in his character but rather on his decision not to resume the practice of law. That Petitioner looks toward this decision as a deterrent against future misconduct

[17] *See Tardiff v. State Bar*, 612 P.2d 919, 923 (Cal. 1980) (considering a petitioner's character in light of the shortcomings that resulted in the imposition of discipline).

gives us little comfort that, should he again feel the "itch" to practice law, he could conform his conduct to the Rules of Professional Conduct and could diligently and competently represent clients.

We do, however, appreciate Petitioner's candid ruminations about his misconduct and his inability to continue practicing criminal law or litigation. Petitioner was very honest about what he had done and about his limitations going forward. His comments reflect positively on his candor and sincerity, and we find that he has accepted responsibility for his misconduct.

Despite some evidence showing progress toward rehabilitation, the Hearing Board concludes that Petitioner has not proved his full rehabilitation by clear and convincing evidence. We do not see a regeneration of his character or a notable difference in his fitness to practice law. Petitioner appears to have no desire to resume his criminal or litigation practice, but we fear that he may eventually choose to return to this line of work if given the opportunity. We have no confidence that he could diligently and competently represent his clients or that he would be unlikely to repeat his past misconduct if he resumed such work.

IV. CONCLUSION

The Hearing Board finds that, taken as a whole, Petitioner has failed to satisfy by clear and convincing evidence his burden of showing that he is fit to practice and that he has undergone a genuine change in character that will ensure protection of the public.

V. ORDER

1. The Hearing Board **DENIES** Petitioner's "Petition for Reinstatement Pursuant to C.R.C.P. 251.29." Petitioner **DONALD ARTHUR BRENNER,** attorney registration number **05692**, **SHALL NOT BE REINSTATED** to the practice of law.

2. Under C.R.C.P. 251.29(i), Petitioner **SHALL** pay the costs of this proceeding. Petitioner has paid the People a $500.00 cost deposit. The People **SHALL** submit a statement of costs **on or before May 12, 2016**. Petitioner **MUST** file his response to the People's statement of costs, if any, **within seven days thereafter**. The PDJ will then issue an order establishing the amount of costs to be paid or refunded and a deadline for the payment or refund.

3. Petitioner **MUST** file any posthearing motion with the Hearing Board **on or before May 19, 2016**. Any response thereto **MUST** be filed **within seven days**.

4. Petitioner has the right to appeal this decision under C.R.C.P. 251.27.

5. Petitioner **SHALL NOT** petition for reinstatement within two years of the date of this order.[18]

[18] C.R.C.P. 251.29(g).

DATED THIS 28th DAY OF APRIL, 2016.

Originally signed

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WILLIAM R. LUCERO
PRESIDING DISCIPLINARY JUDGE

Originally signed

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MICHAEL B. LUPTON
HEARING BOARD MEMBER

Originally signed

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DARLA SCRANTON SPECHT
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