

STATE OF MAINE  
BOARD OF BAR EXAMINERS

IN RE: Allison McGonagle )  
  ) Decision of the Board  
  ) Pursuant to M. Bar Admission R. 9(d)  
  )  
  )

Allison McGonagle seeks admission to the Maine bar. She contends that she has produced satisfactory evidence of good moral character as required by Maine Bar Admission Rule 9 and, accordingly, that this Board should issue her a certificate of qualification and admit her as a member of the bar. As discussed more fully below, this Board concludes that Ms. McGonagle has not established that she possesses the requisite good moral character necessary for admission to the Maine bar and that she is not eligible for conditional admission pursuant to Maine Bar Admission Rule 9A.

**FACTUAL BACKGROUND**

On April 13, 2023, the Maine Board of Bar Examiners conducted a public hearing in this matter pursuant to Bar Admission Rule 9. The hearing took place by Zoom and was recorded. Members of the Board participating in the hearing were Christopher K. MacLean, Esq. (Chair), Andrew Wisch (Public Member), Jennifer Nichols Ferguson, Esq., Tracy Collins, Esq., Alison

Tozier, Esq., John Gause, Esq., and Paul Mills, Esq. The applicant, Allison McGonagle, appeared and was represented by James M. Bowie, Esq. Kimberly L. Patwardhan, Esq., Assistant Attorney General, appeared as Counsel for the Maine Board of Bar Examiners. The Board received ten exhibits identified on the Joint Exhibit List. The Board also received sworn testimony from Ms. McGonagle and three additional witnesses called by Ms. McGonagle. In reaching its decision, the Board carefully considered the evidence and testimony presented, the burden of proof, and the applicable substantive law. All participating members of the Board concur in this decision.

Ms. McGonagle graduated from Fordham University in 2009 with a Bachelor of Arts degree in International Political Economy. After several years of employment in the medical field, she applied for and was admitted to the University of Maine School of Law. She began law school in the fall of 2018. She excelled academically, graduating magna cum laude in May 2021. She applied for admission to the Maine bar on May 4, 2021, sat for the July 2021 administration of the exam, and passed the exam. From August 2021 to August 2022, Ms. McGonagle worked as a judicial law clerk for the Maine Superior Court, a position she applied for while still in law school. Since August 2022 she has been working as a legal researcher and writer for a law firm in Maine. By all accounts, Ms. McGonagle is highly intelligent and a hard worker. Her character witnesses provided compelling testimony about her analytical skills and dependability.

In her application to the Maine bar, Ms. McGonagle disclosed that she

had been involved in a fraudulent marriage in 2010. She stated that she was asked by her roommate to help a man from Azerbaijan (referred to hereinafter as "B.A.") who was living in the United States on a visa. She said that she had agreed to marry B.A. after "minimal thought." She further stated:

We were married in 2010 and he subsequently filed all the necessary forms with the Immigration Service and obtained temporary status, as far as I know. I am largely in the dark about what happened and what forms were filed (sic) out and I am not sure of his status at this time. I received some modest monetary contributions from my former spouse during the marriage, but that was not my primary motivation and they were relatively insignificant. In 2012 I asked for a divorce. Our divorce was completed, uncontested, in 2013.

Ms. McGonagle described in her application that she was approached in 2018 by investigators who worked for the U.S. Attorney's Office. She stated that she answered their questions "to the best of my ability." She stated that she was "nervous and timid" at the time of the interview, quickly retained counsel, and "cooperated completely" with the U.S. Attorney's Office. She noted that she had testified truthfully at a grand jury proceeding involving B.A. in early 2019. Ms. McGonagle was not charged with any crime related to her dealings with B.A.

In her application, Ms. McGonagle described remorse for entering into the fraudulent marriage but noted that she was only 22 years old at the time and that it "followed a tumultuous time in my life." She contended that while she had made a poor decision to enter into the fraudulent marriage, her subsequent candor, her cooperation with the U.S. Attorney, and the significant

passage of time since the marriage should be seen as mitigating factors. She noted that she had reported her conduct to the law school and had worked hard to rehabilitate her character over the last ten years. In sum, she represented in her application that the decision she made at age 22 was the result of a brief lapse of judgment, that she had limited knowledge of, and had no participation in, the filing of B.A.'s permanent residency application, and that she had been fully candid about the matter at all subsequent times. Based on Ms. McGonagle's disclosure that she had participated in a fraudulent marriage,<sup>1</sup> her application was flagged for further consideration of character and fitness issues.

Ms. McGonagle's representations in her application to the Maine bar were not truthful. At the time she agreed to participate in the fraudulent marriage, Ms. McGonagle was aware that B.A. was involved in deportation proceedings and not, as she implied in her bar application, lawfully in the United States on a visa. Ms. McGonagle's suggestion that the decision was taken with "minimal thought" does not candidly reflect what occurred. A few months passed between the time she agreed to engage in the marriage and the time when the marriage ceremony took place. Moreover, with Ms. McGonagle's knowledge and participation, the marriage ceremony was carefully staged. A

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<sup>1</sup> Marriage fraud is a federal felony punishable by up to five years in prison and a \$250,000 fine. 8 U.S.C. § 1325(c). "Any individual who knowingly enters into a marriage for evading any provision of the immigrations laws school be imprisoned for not more than five years, or fined not more than \$250,000, or both."

number of individuals attended the ceremony to give the appearance of authenticity. A photographer was commissioned to take photographs and to make the marriage appear real.

Contrary to the characterization of events in her bar application, Ms. McGonagle was not “largely in the dark” about B.A.’s post-marriage immigration filings. Ms. McGonagle participated in B.A.’s immigration proceedings. In fact, she was the petitioner who sponsored B.A.’s permanent residency application filed with the Department of Homeland Security, U.S. Citizenship and Immigration Service (USCIS). Her petition to USCIS sponsoring B.A.’s permanent residency status contained false statements about their relationship. She would necessarily have had to sign this petition under penalty of perjury.<sup>2</sup> Ms. McGonagle acknowledged at the Rule 9 hearing that submitting these documents to USCIS was a federal felony.<sup>3</sup>

At the time Ms. McGonagle entered into the fraudulent marriage and participated in the fraudulent USCIS filings, she was on a deferred disposition agreement in Maine for the crime of Operating Under the Influence (OUI). Pursuant to the terms of the deferred disposition agreement, she was not to commit any state or federal crimes. Her violations of federal law were not

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<sup>2</sup> The I-130 form, used by a U.S. citizen or green card holder to petition for a green card for a spouse, must be signed by the U.S. citizen or green card holder under penalty of perjury and contains language warning the petitioner of the penalties for committing marriage fraud.

<sup>3</sup> Immigration fraud is a federal felony punishable by up five years of imprisonment and a fine of not more than \$250,000. 18 U.S.C. § 1546.

discovered during the period of her deferred disposition and she received the benefit of a successful outcome. The successful outcome involved the dismissal of the OUI charge and a conviction for Driving to Endanger. Ms. McGonagle's bar application states: "I cooperated with police. I completed a prolonged disposition without incident, and took responsibility. I have not been in trouble since."<sup>4</sup> Ms. McGonagle acknowledged at the Rule 9 hearing that she would not have been entitled to the successful outcome if the court had been aware of her fraudulent marriage and immigration fraud.

The Board further learned that as part of Ms. McGonagle's petition for B.A.'s application for permanent residency, she participated in an immigration interview with USCIS in 2012. Prior to the USCIS interview, Ms. McGonagle met with B.A. and rehearsed the false testimony that she and B.A. planned to offer at the interview. Ms. McGonagle acknowledged during the Rule 9 hearing that she appeared for the USCIS immigration interview and provided false testimony under oath in support of her petition. Ms. McGonagle acknowledges that this constitutes separate felony conduct. During her marriage to B.A., Ms. McGonagle received at least \$6,000 for her part in the endeavor (mostly in the form of joint tax refunds).

On March 9, 2013, Ms. McGonagle filed for divorce in Maine. Her

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<sup>4</sup>The police report from the incident notes that Ms. McGonagle removed her handcuffs while being transported to the police station. When asked at hearing whether it was accurate to describe herself as being fully cooperative with the police in light of her removal of the handcuffs, Ms. McGonagle testified that it only would have been uncooperative if the police had specifically told her not to remove the handcuffs.

complaint avers that she was “lawfully married” to B.A. on May 25, 2010. In order to perpetuate an ongoing fraud on USCIS, and to further assist B.A., Ms. McGonagle prepared an affidavit in or around 2013 that she knew would be submitted to USCIS. The affidavit contains many troubling false statements, including assertions that the marriage was made in good faith and that she and her husband were very much in love, but the relationship had broken down. She described her husband as “kind and supportive, that they remain cordial,” and that “I do believe he is a valuable member of this country, and deserves permanent residency.” Ms. McGonagle acknowledges that her creation of this false affidavit, which she knew was being submitted to USCIS, constitutes additional conduct that is a felony under federal law. Ms. McGonagle appeared in court on June 11, 2013 for her uncontested divorce hearing. The divorce was granted on that date. Ms. McGonagle’s active participation in the fraudulent scheme lasted about three years.

In 2018, Ms. McGonagle submitted an application to the University of Maine School of Law. She did not disclose in her law school application that she had engaged in a fraudulent marriage or any of the related conduct; however, the law school application arguably did not ask any question that explicitly required her to disclose it. The law school application asks twelve questions relating to character and fitness. For the most part, the relevant questions require disclosure of conduct for which the applicant has been “cited for, charged with, arrested for or convicted of.” However, one question asks:

“Are there criminal charges pending or expected to be brought against you?”<sup>5</sup>

During the Rule 9 hearing, Ms. McGonagle was asked to explain why she did not report the marriage fraud and related conduct on her law school application. She testified that she “didn’t remember it” when she was applying to law school. While the Board places little weight on her failure to disclose the conduct on her law school application, the Board did not find her testimony on this issue to be credible.

Ms. McGonagle began her studies at the Maine Law School in the fall of 2018. On October 19, 2018, she was visited at her home by federal ICE agents from the Department of Homeland Security.<sup>6</sup> During this interview, Ms. McGonagle made materially false statements. She described being in a relationship with B.A. for approximately one year but stated that their relationship ended only a few months after they were married. She stated that she had been in an intimate relationship with B.A. She denied that she had been compensated financially for her assistance. In a subsequent proffer session with the U.S. Attorney’s Office, she admitted having been untruthful during the October 19, 2018 interview. Ms. McGonagle acknowledges that she could have been charged with a federal felony for not being truthful to the

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<sup>5</sup> A law school applicant who had engaged in marriage fraud several years earlier could plausibly maintain that she did not “expect” to be charged; however, erring in favor of full disclosure of serious uncharged criminal conduct would be favorable evidence of rehabilitation and candor in a future character and fitness hearing.

<sup>6</sup> Ms. McGonagle’s bar application stated she was approached by individuals who “I believe were investigators for the US Attorney’s Office....” At the time she submitted her bar application, Ms. McGonagle knew that the investigators were in fact federal ICE agents from the Department of Homeland Security.



federal agents in 2018.<sup>7</sup>

Ms. McGonagle stated in her bar application that, following the visit from the federal agents, she spoke with the law school administration to advise them of the fraudulent marriage and issues flowing from it.<sup>8</sup> She testified at the Rule 9 hearing that she was advised that she would most likely need to amend her law school application to describe her involvement in the matter. Ms. McGonagle acknowledges that she did not amend her law school application until May 2021, after completing law school, at the time she was applying for admission to the Maine bar. It is significant to the Board that Ms. McGonagle waited until graduation from law school—and after she had secured a coveted judicial clerkship—to amend her law school application, and this only after she realized that the content of the law school application would be part of the application to this Board.<sup>9</sup> She acknowledges that the description of her conduct in her bar application was not truthful and omits significant relevant conduct that should have been disclosed.<sup>10</sup>

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<sup>7</sup> 8 U.S.C. §1001.

<sup>8</sup> While Ms. McGonagle told the Dean of Students that she was concerned that she had not been fully truthful with the federal agents, she described the situation only in vague terms. She did not reveal any details about the fraudulent marriage until she amended her law school application at the time of graduation. Even then, the version of events she gave was the same misleading version she submitted with her bar application.

<sup>9</sup> It is also significant to the Board the Ms. McGonagle waited until she passed the bar exam—and learned that she would not be sworn in because of character and fitness issues—to disclose the matter to the justices with whom she worked.

<sup>10</sup> Ms. McGonagle's application to the Maine bar was submitted under oath and contained the following attestation: "I have read the foregoing questions, and have answered the same fully and frankly. The answers are complete and true to my own knowledge. I have personally handwritten or typed the answers or they have been prepared under my supervision."

## DISCUSSION

Maine Bar Admission Rule 9 requires each applicant to produce evidence of his or her good moral character. M. Bar Admission R. 9(a). “The attributes of character that are relevant to this determination are those pertinent to the trust placed in lawyers by the public and clients as well as to the requirement that lawyers in this state comply with the Maine Bar Rules and the Maine Rules of Professional Conduct.” *Id.* When “doubt remains concerning the applicant's good moral character,” the Board is required to conduct a hearing to determine whether the applicant does, in fact, possess good moral character. *Id.* 9(d)(1). The applicant bears the burden to establish his or her good moral character, which burden remains upon the applicant throughout the proceedings. *See id.* 9(a), (d)(5)(H). *See also Nicholson v. Bd. of Bar Exam'rs*, BAR-07-01 at 9 (Dec. 6, 2007) (Levy, J.).

“Good moral character’ entails honesty, integrity, respect for the law, and respect for the rights of others.” *Id.* (quoting ABA CODE OF RECOMMENDED STANDARDS FOR BAR EXAMINERS, COMPREHENSIVE GUIDE TO BAR ADMISSION REQUIREMENTS (2007)).

When reviewing an applicant's prior bad conduct, the following factors are considered:

- (1) the applicant's age at the time of the conduct;
- (2) the frequency and recency of the conduct;
- (3) the seriousness of the conduct;
- (4) the evidence of rehabilitation;
- (5) the applicant's candor in the admission process;
- (6) the

materiality of any omissions or misrepresentations; (7) the cumulative effect of conduct or information; and (8) the applicant's current attitude regarding the conduct... Additional factors that may bear on the determination of a candidate's good moral character include the applicant's positive social contributions since the conduct, the opinions of character witnesses as to the applicant's current moral fitness, and any other evidence relevant to the applicant's current honesty, diligence, or reliability.

*Id.* at 10.

Unlike many other jurisdictions, the Maine bar is small. It is common for lawyers in Maine to interact with the same lawyers and judges regularly throughout their careers. For this reason, the practice of law in Maine tends to be more collegial than in larger jurisdictions. It may be that there is more personal accountability—and more professional repercussions for unethical lawyering—in an environment where a reputation for candor can be quickly made or quickly lost. To be sure, the practice of law is competitive. Violations of professional ethics occur here as elsewhere. The Board believes, however, the most effective lawyers are those who admit their mistakes to clients, opposing counsel, and the court; who ensure that courts and opposing counsel rely on accurate information and correct legal authority; and who favor candor at all times over deception. Over the course of a career, it is the lawyers who exemplify this model who garner the greatest respect of their peers and who ultimately achieve the best results for their clients. We live in an ever-changing world, but the Board considers these values to be timeless

and they inform our review of character and fitness issues that come before us. Ultimately, a lawyer applying for admission to the bar must be someone who demonstrates a commitment to the ideals embodied in the following oath:

You solemnly swear that you will do no falsehood nor consent to the doing of any in court, and that if you know of an intention to commit any, you will give knowledge thereof to the justices of the court or some of them that it may be prevented; you will not willingly promote or sue any false, groundless or unlawful suit nor give aid or consent to the same; that you will delay no man for lucre or malice, but will conduct yourself in the office of an attorney within the courts according to the best of your knowledge and discretion, and with all good fidelity, as well as to the courts, as to your clients. So help you God.<sup>11</sup>

The Board concludes that Ms. McGonagle has not established satisfactory evidence of good moral character as required by Maine Bar Admission Rule 9(a). The Board's decision rests primarily on her lack of candor about the conduct rather than on the conduct itself. To be clear, Ms. McGonagle made a very bad decision to engage in a fraudulent marriage to an Azerbaijan national who she knew was in deportation proceedings. The bad decision was compounded by her decision to fraudulently sponsor his permanent residency application, to commit perjury in an immigration interview, and to create a false affidavit for filing with USCIS. These acts, on their own, would raise serious character and fitness concerns but would not necessarily disqualify Ms. McGonagle from

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<sup>11</sup> 4 M.R.S. §806.

admission to the Maine bar if sufficient evidence existed of rehabilitation and candor in the admission process. Ms. McGonagle was young at the time she actively participated in the fraudulent conduct, the record reflects she was going through a difficult time in her life, and these events took place a decade ago.

When Ms. McGonagle was in her first few months of law school, the events relating to B.A. resurfaced. She was visited at her home by federal law enforcement officers. Several years had passed since her active participation in the fraudulent conduct. She was at a different stage in her life. She had remarried and gained maturity. Her focus was on becoming a lawyer in Maine. Unfortunately, Ms. McGonagle chose to mislead the agents. This deception was significant and designed to minimize her involvement and blameworthiness. Immediately after the interview, she knew that she had made a mistake. She described to the Board in her testimony how the interview devastated her. She was fearful of the effect it could have on her legal career. She secured legal counsel and learned that while the statute of limitations had run with respect to marriage fraud prosecution, she could be charged with being untruthful to federal agents. In this context, she participated in a confidential proffer session with the Office of the U.S. Attorney, made a truthful disclosure of her involvement, and testified truthfully in a grand jury proceeding. If the record before the Board ended here, Ms. McGonagle

still may have been able to meet her burden of proof in this matter.

Unfortunately, Ms. McGonagle's application for admission to the Maine bar was not candid. Her application glossed over the truth in material ways. Her description of events was designed to mislead the Board to believe that her only indiscretion was a momentary lapse of judgment in 2010. But for a lengthy investigation, the Board would never have known that B.A. was involved in deportation proceedings at the time of the fraudulent marriage in 2010; that she herself had sponsored B.A.'s permanent resident application; that she had prepared with B.A. to commit perjury in an immigration interview and testified falsely under oath in 2012; that she prepared and signed an affidavit in or around 2013, for filing with USCIS, that contained troubling misrepresentations; or that she had been untruthful to federal agents in October 2018.

Ms. McGonagle acknowledged at the Rule 9 hearing that her bar application lacked candor. She conceded the accuracy of most of the facts relating to the conduct described in this decision. Ms. McGonagle also presented persuasive character testimony through two justices with whom she worked as a judicial clerk. Her character witnesses described her in the most laudatory terms. Both testified without reservation that, based on their experiences, Ms. McGonagle possessed the requisite character and fitness for admission to the bar. From the testimony, however, it is clear to the Board that neither of these character witnesses

had been made aware of the breadth of concerning conduct contained in the record before the Board. Moreover, the Board notes that one of these character witnesses was, unbeknownst to him until the Rule 9 hearing, the presiding judge at the time Ms. McGonagle received the successful deferred disposition outcome to which she was not fairly entitled. It is concerning to the Board that this justice was asked to testify to her good character when she had not fully disclosed to him the scope of her bad prior conduct even by the time of the Rule 9 hearing. It is much to her credit, however, that she made a highly favorable impression as a diligent and dependable judicial clerk with excellent legal research and writing skills. Ultimately, the strong and credible testimony from her character witnesses, based on recent experiences with her during her one-year post-graduation clerkship, is insufficient evidence to persuade the Board of her character and fitness to practice law.

At almost every turn since 2010, Ms. McGonagle chose deception over candor. Many of her choices involved false representations to tribunals. She admits that she was not truthful on her bar application. Even in her testimony during the Rule 9 hearing, Ms. McGonagle continued to downplay and explain away inconsistencies in a manner that lacked candor. For example, her bar application implies that she answered questions truthfully when visited by the federal agents in 2018. Her application states that she answered their questions “to the best of my ability.” When asked

about this at the Rule 9 hearing, she stated that she did mislead the agents, but that was the best she could do under the circumstances. Her explanation for the misleading description of events on her bar application was: “You know, this was something I really wrote very quickly and tried to just get behind me.”

Based on the frequency of her deceptive conduct, her lack of candor in the admission process, the materiality of the omissions and misrepresentations, and the cumulative nature of the conduct over twelve years, the Board is not persuaded that Ms. McGonagle would be truthful with a court, client, or opposing counsel if it served her interest not to be. Ms. McGonagle “has not satisfied the Board that the applicant is a person of good character and is fit to practice law.” Maine Bar Admission Rule 9(d)(5)(H).

This Board also cannot conclude that “the conditions that led to the determination that [Ms. McGonagle] has not produced satisfactory evidence of good moral character are in the past and are not likely to recur.” M. Bar Admission R. 9A(a)(1). At this time, the Board does not believe there are conditions that could be imposed that would adequately serve to protect the public. Accordingly, this Board declines to exercise its discretion to grant Ms. McGonagle conditional admission.



