

*Richard A. Howieson v. People. 23PDJ042. June 5, 2024.*

Following a reinstatement hearing, a hearing board reinstated Richard A. Howieson (attorney registration number 50108) to the practice of law in Colorado under C.R.C.P. 242.39. The reinstatement took effect June 5, 2024.

In July 2021, Howieson was suspended from the practice of law in Colorado for eighteen months. The suspension was premised on Howieson's conviction of a class-six felony of obscenity. The hearing board reinstated Howieson, finding that he proved by clear and convincing evidence that he complied with all disciplinary rules and orders, he is fit to practice law, and he has been rehabilitated from his underlying misconduct.

The case file is public per C.R.C.P. 242.41(a). 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	
<hr/> <b>Petitioner:</b> RICHARD A. HOWIESON, #50108  <b>Respondent:</b> THE PEOPLE OF THE STATE OF COLORADO	<hr/> <b>Case Number:</b> <b>23PDJ042</b>
<b>OPINION GRANTING REINSTATEMENT UNDER C.R.C.P. 242.39</b>	

Richard A. "Alex" Howieson ("Petitioner") seeks reinstatement after his law license was suspended for eighteen months beginning in 2021. The suspension was premised on Petitioner's guilty plea to a class-six felony of obscenity for sending messages and a sexually explicit photograph of himself via cell phone and messaging apps to a detective posing as a fourteen-year-old girl. Petitioner has proved by clear and convincing evidence that he has been rehabilitated from his misconduct and should be reinstated to the practice of law in Colorado.

### I. PROCEDURAL HISTORY

On August 17, 2023, Petitioner, through his counsel Louis L. Underbakke, filed a "Verified Petition for Reinstatement [Under] C.R.C.P. 242.39" with Presiding Disciplinary Judge Bryon M. Large ("the PDJ").<sup>1</sup> On behalf of the Office of Attorney Regulation Counsel ("the People"), Alan C. Obye answered on September 7, 2023, opposing the petition. The Court set a two-day reinstatement hearing to take place on February 1-2, 2024. After Underbakke withdrew from the matter, Nancy L. Cohen entered her appearance on Petitioner's behalf and moved to continue the hearing, which the PDJ reset for April 10-11, 2024. On March 8, 2024, the PDJ notified the parties that the reinstatement hearing would take place in Courtroom 2A of the Lindsey-Flanigan Courthouse at 520 West Colfax Avenue in Denver, Colorado.<sup>2</sup>

---

<sup>1</sup> Stip. Facts ¶ 9.

<sup>2</sup> At the time of the reinstatement hearing, the office building at 1300 Broadway in Denver, where the PDJ's courtroom is located, was closed due to damage to the building. The PDJ extends his gratitude to the judges and staff at Denver Juvenile Court for generously providing space to hold this hearing.

On April 10 and 11, 2024, a Hearing Board comprising the PDJ, citizen member Shari Plantz-Masters, and Kyle J. Martelon, a member of the bar, held a reinstatement hearing under C.R.C.P. 242.39. Petitioner appeared with his counsel Cohen and Aidan T. O’Neil;<sup>3</sup> Obye attended for the People, as did Justin P. Moore, who participated remotely via the Zoom videoconferencing platform.<sup>4</sup> The Hearing Board received testimony from Petitioner, Rick Howieson, Francisco Martinez, Christopher Weathers, MSW, LCSW, and Melissa R. Gursky, M.A. The parties stipulated to qualify Weathers and Gursky as mental health experts. The Hearing Board also viewed the videorecorded deposition of Stephen Natelson. The PDJ admitted stipulated exhibits S1-S18 and Petitioner’s exhibit 6.<sup>5</sup> The PDJ also accepted the parties’ stipulated facts and their stipulation regarding factors in support of reinstatement.

At the close of evidence, the People withdrew their opposition to Petitioner’s petition, asserting that they could no longer argue in good faith that Petitioner lacked strong evidence of rehabilitation. Rather than stipulating to Petitioner’s reinstatement, however, the People deferred to the Hearing Board to determine whether Petitioner showed clear and convincing evidence that he should be reinstated to the practice of law in Colorado.

## II. FINDINGS OF FACT<sup>6</sup>

Petitioner was admitted to practice law in Colorado on October 31, 2016, under attorney registration number 50108. He is thus subject to the jurisdiction of the Colorado Supreme Court and the Hearing Board in this reinstatement proceeding.<sup>7</sup>

### **Petitioner’s Professional Background and Disciplinary History**

In January 2021, Petitioner pleaded guilty in Jefferson County District Court to a class-six felony of obscenity – promotion to a minor.<sup>8</sup> His conviction stemmed from his exchange of messages with a Jefferson County detective posing as a fourteen-year-old girl via cell phone and the messaging apps Kik and Whisper. During those exchanges, Petitioner sent a sexually explicit photograph of himself and agreed to meet his interlocutor the same day. Petitioner drove to the intended meeting place, where he was surrounded by Jefferson County Sheriff’s squad cars. He was later arrested and charged with internet exploitation of a child. That count was dismissed

---

<sup>3</sup> O’Neil entered his appearance on March 11, 2024.

<sup>4</sup> Moore entered his appearance on March 28, 2024. At a remote status conference held on April 9, 2024, the PDJ granted the People’s oral request that Moore participate in the hearing remotely.

<sup>5</sup> On March 29, 2024, the PDJ granted the parties’ “Stipulated Motion for Protective Order” and suppressed the report detailing Petitioner’s independent medical examination, which the parties submitted as exhibit S17.

<sup>6</sup> Factual findings are drawn from testimony offered at the hearing where not otherwise indicated.

<sup>7</sup> C.R.C.P. 242.1(a)(1).

<sup>8</sup> Stip. Facts ¶ 1.

when Petitioner pleaded guilty to obscenity – promotion to a minor. Petitioner’s law firm terminated his employment about this time.

On March 23, 2021, Petitioner was sentenced to four years of probation with conditions.<sup>9</sup> Those conditions required him to successfully complete offense-specific treatment, complete a substance abuse evaluation and treatment, totally abstain from illegal substances, complete adult sex offender conditions, comply with the Colorado Computer Use Agreement, maintain full-time verifiable employment, make payment or restitution, maintain a stable residence, and register as a sex offender.

On July 20, 2021, Petitioner and the People entered into a “Stipulation, Agreement and Affidavit Containing the Respondent’s Conditional Admission of Misconduct,” agreeing to Petitioner’s eighteen-month suspension from the practice of law in Colorado.<sup>10</sup> The parties stipulated that Petitioner violated Colo. RPC 8.4(b), which provides that it is professional misconduct to engage in conduct that reflects adversely on the lawyer’s honesty, trustworthiness, or fitness as a lawyer in other respects. The stipulation was approved on July 21, 2021, and Petitioner’s suspension took effect that day.<sup>11</sup>

**Petitioner’s Reflections on His Misconduct**  
*Petitioner’s Struggles with Alcohol and Isolation*

At the reinstatement hearing, Petitioner described experiencing a confluence of long-standing and emerging personal problems in the months leading up to his criminal conduct. Petitioner said his issues began during law school, where he struggled with feelings of insecurity rooted in the contrast between his grandiose self-expectations and what he perceived to be his lack of accomplishment. Petitioner testified that he used alcohol to manage his insecurities. After law school, Petitioner relied more heavily on alcohol to cope with the stress of practicing law in a large personal injury firm and to distract himself from his deepening self-doubt at having failed to meet his personal and financial goals.

In early 2020, Petitioner was living alone in an apartment in the Denver area and working as an associate at a small insurance defense practice. The lockdown at the outset of the COVID-19 pandemic isolated him from his family, friends, and community. Petitioner testified that his drinking “substantially increased” from March through May 2020, as he was drinking “pretty much . . . when he was not working.” He began drinking Fridays through Sundays, he said, and soon extended his alcohol use to Mondays and Tuesdays after work, when he would “wean” himself from his weekend binge drinking.

---

<sup>9</sup> Stip. Facts ¶ 2.

<sup>10</sup> Stip. Facts ¶ 3. Petitioner is referred to as “Respondent” in the disciplinary stipulation, which the parties filed in case number 21PDJ051.

<sup>11</sup> Stip. Facts ¶ 4. The parties’ disciplinary stipulation also reflects that on May 5, 2021, the Colorado Supreme Court immediately suspended Petitioner based on the same conviction.

Petitioner's isolation became "self-induced." He did not want his family to learn about his excessive drinking—particularly his father, who was in recovery from alcohol abuse, so he withdrew from contact with them. Petitioner reported that he could not have honest conversations with his family, adding that he was embarrassed by his alcohol use and by the things he would say when he was drunk. Even so, "arrogance" prevented him from seeking support during this time, because he believed that he could "handle it" himself.

Petitioner sought to relieve his isolation through social media, including the anonymous messaging app Whisper. He described Whisper as an app that allows users to anonymously post messages or pictures, to comment on others' posts, and to send direct messages to posters. Petitioner said that he used Whisper two or three times in the months leading up to his criminal conduct, using the app to communicate with strangers and to have conversations that he did not want to have with his friends and family. According to Petitioner, he typically communicated with four or more people when using the app but did not set out to connect with people of any specific age.

#### *Communications with "Kylin"*

At the reinstatement hearing, Petitioner described the communications that led to his criminal conviction. He testified that he was at work just after Memorial Day 2020, recovering from a long bender over the holiday weekend. While at work, he accessed Whisper on his personal iPhone. Through the app, Petitioner responded to an anonymous post from a user who went by "Kylin,"<sup>12</sup> who purportedly was seeking marijuana.<sup>13</sup> In response he asked, "Don't you know it's legal?" Kylin replied that she could not purchase marijuana legally because she was fourteen years old.

Petitioner said that the conversation gradually turned to sexual topics, and he and Kylin each described their sexual histories. They did not talk about engaging in sex with each other, he said. Petitioner testified that he sent Kylin a picture of his face, but she did not reciprocate when he asked her for a similar picture. Nor did she exchange naked pictures of herself, even though he asked her to do so. Instead, Petitioner recalled, Kylin asked him for more pictures of himself. Petitioner said that when he asked Kylin what type of images she wanted, she replied, "Surprise me." He sent her a sexually explicit picture of himself.

Petitioner said that Kylin asked to meet him four times during the online conversation. After the fourth time, Petitioner "reluctantly agreed" to meet her at a fast-food restaurant. After work, he drove to the restaurant where he agreed to meet Kylin. When he parked his car near the restaurant, he was immediately surrounded by police, who searched his vehicle and confiscated his iPhone. He gave police his iPhone passcode, he said, adding that the device did not contain any photographs of underage girls or communications with any minors other than

---

<sup>12</sup> "Kylin" was the name used by a Jefferson County detective posing as a fourteen-year-old girl.

<sup>13</sup> Petitioner stated that the post read, "Sun's up looking for greens."

Kylin. Police did not detain Petitioner at that time; instead, they arrested him just over one month later at the law firm where he worked.

At the reinstatement hearing, Petitioner could not explain why he sent a nude picture of himself when he believed he was communicating with a fourteen-year-old girl. "At that point," he said, "I don't think I cared about [Kylin's] age. . . . [She] was on the app, and that's just how the conversation had gone, and I just . . . continued through that." Petitioner struggled to articulate why he attempted to meet Kylin in person, other than he was bored and curious about her, as he was unsure whether she was being forthright about her identity. Even so, he acknowledged that he "probably believed" that Kylin was who she purported to be. Likewise, he could offer no explanation for why he attempted to meet a fourteen-year-old girl.

Petitioner testified that at the time of his misconduct, he was prone to act impulsively, arrogantly, and without respect for laws. "I just wanted to do what I wanted to do," he said. He denied that his conduct was the result of alcohol consumption, though he believed that his judgment was influenced during his recovery from his recent bender. He also posited that his pandemic-related isolation from family and friends likely factored into his behavior.

In his testimony, Petitioner expressed remorse about the effect his conduct would have had on his interlocutor if she actually had been a fourteen-year-old girl. His conduct, he ruminated, would have sent a message to a fourteen-year-old girl that adult men are selfish and care only about their own needs. Petitioner believes that his behavior would have harmed his victim, her family, and her friends. He said that he acted in contravention of the principle that adults are accountable to protect younger generations and must take care not to "just ruin kids."

Finally, Petitioner recognized that he harmed his family, his friends, and his former law firm colleagues. Petitioner also regretted the damaging effect his behavior had on the legal profession. Because the law is a trusted profession, he said, lawyers should be trustworthy, and his conduct did not rise to that standard.

### **Events Since Petitioner's Suspension** *Petitioner's Relocation to New Mexico*

Petitioner left Colorado in September 2020 to live with his family in Angel Fire, New Mexico.<sup>14</sup> He was unemployed and sought his family's help to "figure [out] what's next." Soon after relocating, Petitioner moved to his family's ranch outside of Taos and has since maintained a permanent and stable residence there.<sup>15</sup> Since returning to New Mexico, Petitioner has strengthened his ties with his mother and father, who are the nucleus of his support group. Petitioner said that his family is his most important source of accountability.

---

<sup>14</sup> Stip. Facts ¶ 5.

<sup>15</sup> Stip. Facts ¶¶ 5, 13.

Once Petitioner's criminal probation began, the trial court approved his request to transfer oversight of his probationary conditions from the probation department in Jefferson County, Colorado, to the probation department in Santa Fe, New Mexico.<sup>16</sup> Authorities in New Mexico determined that Petitioner was not required to register as a sex offender in that state based on its offense registration requirements.<sup>17</sup>

### *Law-Related Work and Activities*

In summer 2021, Petitioner began working as an assistant to lawyer Stephen Natelson, who operates a small general practice in Taos that focuses on land use matters and probate administration. Petitioner testified that his early assignments from Natelson were research projects that he completed from home. Petitioner soon began working at Natelson's office two days per week. His duties include preparing initial drafts of motions and complaints for Natelson's review. Petitioner's other duties at Natelson's firm include accessing the internet to conduct legal research, as well as to gather information Natelson requires, such as reviewing online archives of assessor maps.<sup>18</sup> Through this work, Petitioner stated, he has learned the "life cycles" of Natelson's cases and better understands New Mexico's statutes and Taos's city ordinances, which are unique given the city's history as a pueblo. Petitioner said that he continues to work for Natelson and aspires to take over the firm after Natelson retires.<sup>19</sup>

Natelson, who testified via videotaped deposition, described Petitioner's current work as that of an "educated paralegal" insofar as Petitioner has legal training and experience and interacts with clients but does not discuss substantive legal matters with them. Natelson said that Petitioner notifies him when a client requires legal advice or otherwise needs his input. Petitioner exhibits good judgment because he knows and abides by the limits of his authority and "stays in his lane," Natelson said. In general, Natelson described Petitioner as trustworthy, punctual, and dependable. Natelson observed that Petitioner's work quality "has been improving" as he learns the "eccentricities" of legal practice in the Taos area. Indeed, Natelson approvingly described Petitioner's work, stating that he promptly attends to his responsibilities and completes his work accurately. Petitioner "does what he says he'll do," Natelson said.

Other than his work with Natelson, Petitioner's law-related activities during his suspension consisted of completing forty-four hours of Colorado Continuing Legal Education ("CLE") courses.<sup>20</sup>

---

<sup>16</sup> Stip. Facts ¶ 6.

<sup>17</sup> Ex. S4.

<sup>18</sup> Petitioner added that because his probation conditions included restrictions on his internet use, he obtained his probation department's permission to conduct the online research necessary to complete Natelson's assignments.

<sup>19</sup> See Stip. Facts ¶ 12.

<sup>20</sup> See Stip. Facts ¶ 14; see also Exs. S10-S12.

### *Petitioner's Other Activities*

Soon after relocating to Taos, Petitioner began "helping out" on his family's ranch, Howieson Ranch, LLC. He found that he enjoyed the work and is now formally employed there, working between twenty and thirty hours each week.<sup>21</sup> His daily duties include checking the ranch's herd for injured or dead animals, feeding the cattle in the morning, and maintaining approximately ten miles of the ranch's fence line.<sup>22</sup> He also assists with larger projects on the ranch, such as installing new cattle waterers and cultivating portions of the ranch for planting native grasses.

At the reinstatement hearing, Petitioner testified that his criminal behavior provided the impetus to stop drinking and to make lifestyle changes. He has abstained from alcohol for three-and-a-half years. He is now attentive to his diet and exercises often. His favorite pastime is golf; he spends much of his time playing when he is not at Natelson's office or on the ranch. Beyond his love for the game, Petitioner said, he values golf as a healthy means to cope with stress and as a social outlet—an alternative to bars and other environments that, for him, are unhealthy. Petitioner's golfing buddies are not only aware of his sobriety but actively support it.

In early 2024, Petitioner began attending weekly support group meetings through New Mexico Lawyers Concerned for Lawyers.<sup>23</sup> The meetings, organized by the New Mexico State Bar Association, are attended by lawyers and legal professionals who seek mutual support within the legal community.<sup>24</sup> Petitioner testified that attendees typically seek support with issues of alcohol addiction and other personal matters. He added that several participants discuss at the meetings the coping tools they learned as members of Alcoholics Anonymous ("AA") and make themselves available for other attendees to call for additional support.

### *Early Termination of Probation*

On April 17, 2023, Petitioner moved to terminate his criminal probation early with the Colorado court presiding over his case.<sup>25</sup> To support his motion for early termination, Petitioner showed the following:

- That he completed more than half of his four-year probationary term;
- That he paid all fines, fees, court costs, and restitution;
- That he complied with monitored sobriety;
- That his New Mexico Probation Officer, Sariah Gonzales, did not object to early termination of his probation;

---

<sup>21</sup> See Stip. Facts ¶ 12; Ex. S17 at 5.

<sup>22</sup> See Ex. S5.

<sup>23</sup> Stip. Facts ¶ 21.

<sup>24</sup> Stip. Facts ¶ 21.

<sup>25</sup> Ex. S1; Stip. Facts ¶ 7.



- A certificate from his treatment provider, Christopher Weathers, showing he completed his offense-specific treatment and substance abuse treatment;<sup>26</sup>
- Confirmation from the New Mexico Department of Public Safety that Petitioner was not required to register as a sex offender in New Mexico;<sup>27</sup>
- Verification of his continued employment with Howieson Ranch, LLC, and the Natelson Law Office;<sup>28</sup>
- Lack of any re-offense or any contact with law enforcement during his probationary period; and
- Compliance with all other probationary terms and conditions.<sup>29</sup>

On May 5, 2023, the court granted Petitioner’s motion to terminate his probation early.<sup>30</sup>

Petitioner testified that he benefitted from his criminal probation’s structure and rules. Though he is no longer subject to those requirements, he has internalized many of the rules and continues to operate within their bounds, drawing a connection between the probation’s structure and the framework provided by therapy with Weathers.

### **Testimony and Statements from Petitioner’s Witnesses**

Tomasita Garcia is a paralegal at Natelson’s law firm. At the reinstatement hearing, Petitioner said that Garcia is part of his support network. In a letter of support for Petitioner’s reinstatement, Garcia extolled Petitioner’s professionalism, attitude, and ability. “Given my experience working as a paralegal for over 20 years,” she wrote, “it is my opinion that [Petitioner] is more than capable to practice as an attorney and if [Natelson] retired I would not work for another attorney except [Petitioner] if he were to become licensed in New Mexico.”<sup>31</sup>

In his videotaped deposition, Natelson said that he is aware Petitioner pleaded guilty to a felony for sharing sexual content with a minor over the internet. Natelson stated that he was not interested in the details of the communications, however, and has not asked Petitioner to describe them. Natelson explained he is more concerned with “today’s Alex” than with “Alex of four years ago.” Natelson added that he believes Petitioner would furnish the details of the criminal conduct if he asked Petitioner to do so. Natelson reckoned that Petitioner has taken responsibility for his criminal conduct because he worked to terminate his probation early.

If Petitioner is reinstated, Natelson has no reservations about hiring him; Natelson is confident that Petitioner can abide by the Rules of Professional Conduct. Natelson also endorsed Petitioner’s fitness to practice law, describing Petitioner as having an “entry level

---

<sup>26</sup> See Exs. S2-S3, S7.

<sup>27</sup> See Ex. S4.

<sup>28</sup> See Exs. S5-S6.

<sup>29</sup> Stip. Facts ¶ 7a-i.

<sup>30</sup> Ex. S1; Stip. Facts ¶¶ 8, 10.

<sup>31</sup> Ex. S9.

competence to practice” with the potential to develop into a skilled lawyer. Natelson stated that he plans to continue practicing law for three or four years before transitioning business to Petitioner. During his videotaped testimony, Natelson read from his letter in support of Petitioner’s motion for early probation termination, affirming that if Petitioner is reinstated, he will offer Petitioner his support, oversight, and mentoring.<sup>32</sup> He added that he would mentor Petitioner even if Petitioner were to work elsewhere after reinstatement.

The Hearing Board also heard in-person testimony from Petitioner’s father, Rick Howieson. Howieson runs his family’s ranch and was formerly a corporate executive. Howieson observed Petitioner change since Petitioner began working on the ranch in 2020. He emphasized that Petitioner’s prior temper and arrogance has alchemized over time into humility and respect. For instance, Howieson said, Petitioner used to think he was smarter than neighboring ranchers and would reject their help on the Howieson ranch. Now, Petitioner accepts help and will reach out to other ranchers for guidance. Howieson attributed this transformation to the growth Petitioner has realized through therapy.

Howieson testified he was concerned that Petitioner was isolated while living in Denver. He noted that Petitioner was arrogant and had a “self-centered mindset” before his criminal conviction. Howieson, who described himself as a longtime member of AA, sees similarities between the techniques he learned in AA to abstain from alcohol and the coping tools Petitioner has developed in therapy. Those tools “keep us grounded,” he said. Howieson expressed confidence that Petitioner is now equipped to handle stressors and to guard against isolation and relapse.

Francisco Martinez, a former assistant district attorney who is now in private practice, also testified about Petitioner’s isolation in Denver. Martinez and Petitioner, who have been friends since middle school, eventually enrolled in different law schools the same year. Throughout law school, Martinez said, they kept in touch and discussed their studies. Martinez testified that he and Petitioner spoke by telephone every few months during the pandemic. During those conversations, Martinez recalled, Petitioner described living in an “unending routine” of going to work, picking up dinner, and returning to his apartment, giving Martinez the impression that Petitioner was isolated. Martinez added that he was aware Petitioner struggled with alcohol use during that time.

Turning to Petitioner’s criminal conduct, Martinez testified that Petitioner apologized for his behavior and sincerely expressed guilt and remorse. Martinez observed that Petitioner has matured since his conviction. He noted that Petitioner demonstrates a “change in tone” and “is a different person in a good way.” Pointing to his letter of support for Petitioner’s reinstatement petition, Martinez expressed enthusiasm for Petitioner’s return to legal practice, stating that he believes that Petitioner now has tools to help him cope with the stress of practicing law. In that letter, Martinez wrote that Petitioner took time during his suspension “to learn from his

---

<sup>32</sup> See also Ex. S6.

mistakes, build himself back up, and dig a foundation to lead on a moral path. The legal field will only benefit from the presence of [Petitioner].”<sup>33</sup>

### **Expert Testimony Concerning Petitioner’s Rehabilitation** *Petitioner’s Offense-Specific Treatment and Regular Therapy*

The Hearing Board heard testimony from licensed clinical social worker Christopher Weathers. Weathers, who holds a master’s degree in social work with a specialty in clinical services, is the owner and chief clinician of Taos/Colfax Community Corrections.<sup>34</sup> Weathers contracts with the New Mexico Corrections Department to provide criminal sex offender specific treatment, addiction treatment, and other services.<sup>35</sup> Weathers testified that approximately thirty percent of his caseload focuses on sex offense-specific treatment; the “vast majority” of his patients also grapple with substance addiction issues.

According to Weathers, the probation and parole office in New Mexico referred Petitioner to him for sex offender specific treatment and relapse prevention.<sup>36</sup> Weathers said that the first course in Petitioner’s treatment targeted his criminal conduct by addressing any pro-criminal and antisocial tendencies. As an initial step of that treatment, Petitioner completed a needs survey designed to help Weathers identify areas of concern, which Weathers used to focus Petitioner’s treatment. Petitioner’s survey results indicated that he had an alcohol use disorder and an elevated need for relationships. In contrast, Petitioner scored low for pro-criminal behavior or other psychopathy.

In their weekly sessions, Weathers and Petitioner addressed the alcohol use disorder through cognitive behavior therapy. Petitioner began to understand how he addressed alcohol in the past, in what Weathers called the “how did we get here” process. Petitioner also worked to develop cognitive behavior tools to identify stressors and respond to them in ways that support his sobriety.

Petitioner completed the treatment mandated by his criminal probation in July 2022.<sup>37</sup> After that time, Petitioner’s sessions with Weathers tapered from weekly, to every two weeks, to monthly, eventually concluding in early 2023. Beginning in early 2024, Petitioner voluntarily resumed treatment, meeting with Weathers monthly.<sup>38</sup> Weathers explained that Petitioner recognized that this reinstatement proceeding had become a stressor and proactively contacted Weathers for therapeutic support. Weathers also noted that Petitioner began attending the weekly lawyer peer group meetings about the same time as an additional source of support.

---

<sup>33</sup> Ex. S8.

<sup>34</sup> Ex. S15.

<sup>35</sup> Ex. S15.

<sup>36</sup> *See also* Exs. S2, S7.

<sup>37</sup> Exs. S3, S7.

<sup>38</sup> Stip. Facts ¶ 20.

In February 2024, Weathers administered a comprehensive screening tool that he described as a “step up” from the needs survey.<sup>39</sup> Petitioner scored in the “Very Low” risk category overall, including scoring in the lowest risk category for criminal history and pro-criminal attitude/orientation.<sup>40</sup> Petitioner also scored in the “Low Risk” category for problems with alcohol, having been in sustained remission for more than three years. In the clinical summary, Weathers recommended only that Petitioner continue to engage with support measures to help him maintain long-term recovery, as “alcohol consumption has been the biggest contributing factor in [Petitioner’s] past mistakes and poor decision making.”<sup>41</sup>

At the reinstatement hearing, Weathers testified that Petitioner exhibited no clinical markers for criminal behavior once he addressed his alcohol use disorder. He also remarked that Petitioner’s criminal behavior appeared to be an instance of bad decision-making rather than a sign of a personality disorder or part of a pattern of concerning conduct. Based on these findings, Weathers opined that Petitioner’s alcohol use disorder played an important role in his criminal conduct. According to Weathers, “When the precursors that led to [Petitioner’s] alcohol use disorder were in place, it blurred [Petitioner’s] boundaries” that guarded against criminal conduct. Thus, Weathers continued, while Petitioner was not inebriated when he engaged in criminal behavior, his alcohol abuse negatively affected his judgment in general.

Conversely, Weathers concluded that Petitioner’s rehabilitation from his criminal conduct and his recovery from alcohol use disorder were interconnected. Weathers said he is “comfortabl[e] clinically saying that when [Petitioner’s] addiction is managed then it diminishes the risk for criminal behavior.” Weathers expressed confidence that Petitioner’s recovery is stable, relying on Petitioner’s sustained period of remission as well as his two negative ethyl glucuronide (“EtG”) test results from January 2024 and March 2024.<sup>42</sup>

Weathers testified that few of his patients have accepted ownership of their criminal conduct as fully as Petitioner. Though Petitioner shied away from sharing details about his criminal matter during their first meeting, Weathers recalled, he openly discussed his behavior in the meetings that followed. During those discussions, Petitioner accepted full responsibility for his conduct, never blamed others, and consistently engaged in the work of therapy. Weathers said that Petitioner frequently expressed regret and shame for his behavior, and he candidly acknowledged that his actions were those that would have victimized an underage girl.

---

<sup>39</sup> See Ex. 6.

<sup>40</sup> Ex. 6 at 5.

<sup>41</sup> Ex. 6 at 15.

<sup>42</sup> On January 10, 2024, Petitioner submitted to a hair follicle drug test that screens for five common illicit substances as well as for EtG, the chemical produced as a result of alcohol consumption. The results of the hair follicle test were negative for all screened substances, including EtG, indicating that Petitioner had been sober for ninety days at the time the sample was collected. Stip. Facts ¶¶ 18-19; see also Ex. S13. A second sample collected from Petitioner on March 20, 2024, also tested negative for all screened substances. See Ex. S16.

Finally, Weathers opined that Petitioner learned to leverage the cognitive behavior tools he developed through therapy to achieve positive outcomes and personal growth. Weathers pointed to Petitioner's reengagement with therapy and his participation in the lawyer peer group as examples of this evolution. In both cases, Petitioner apprehended that he needed support to cope with a significant stressor and sought healthy self-care. Overall, Weathers harbors no concerns if Petitioner is reinstated to the practice of law so long as Petitioner maintains his support system and continues to use his cognitive behavior tools.

#### *Petitioner's Independent Medical Examination*

On November 9, 10, and 28, 2023, Petitioner participated in a mental health sex offense-specific evaluation conducted by Melissa Gursky, a mental health expert whom the parties agreed would perform an independent medical examination ("IME") in this case.<sup>43</sup> During the IME, Petitioner participated in psychological testing.<sup>44</sup> In addition, Gursky reviewed Petitioner's scores on multiple evaluative instruments,<sup>45</sup> conducted a clinical interview with Petitioner, and conferred with Petitioner's therapist, Weathers. Based on her evaluation of Petitioner, Gursky found that:

- Petitioner is at the lowest risk of re-offending;<sup>46</sup>
- Petitioner appears to have changed his life, as evidenced by his strengthened familial relationships, his work life balance, his dedication to recovery and restoration, and his commitment to addressing the thoughts, feelings, and behaviors that led to his past criminal conduct;
- Excluding the events that led to his criminal conviction, Petitioner appears to be a law-abiding person; and
- Petitioner has taken responsibility for his past conduct and is now living a healthier life.<sup>47</sup>

From these findings, Gursky concluded that Petitioner does not require additional offense-specific treatment and that no other restrictions appear necessary or warranted based on Petitioner's current lifestyle.<sup>48</sup>

---

<sup>43</sup> Stip. Facts ¶ 15. Gursky is recognized by the Colorado Sex Offender Management Board as an evaluator and is a licensed professional counselor in Colorado and South Dakota. Ex. S14 at 8.

<sup>44</sup> This testing included the Millon Clinical Multiaxial Inventory IV and the LOOK Assessment for sexual interest, which Gursky administered two times to guard against false manipulation of results. Gursky added that the assessment also incorporates an anti-feigning tool.

<sup>45</sup> Gursky relied on the Marshall/Hucker Sexual Sadism Scale, VASOR-2, SOTIPS, and PCL-R.

<sup>46</sup> At the reinstatement hearing, Gursky explained that by design, evaluation instruments can never show a subject who has committed a sexual offense is at zero risk for re-offending.

<sup>47</sup> Stip. Facts ¶ 16.a-d; *see also* Ex. S17.

<sup>48</sup> Stip. Facts ¶ 17.

At the reinstatement hearing, Gursky opined that Petitioner “no longer uses maladaptive coping responses and [has] returned to adaptive coping responses.” Gursky said that Petitioner acquired tools while treating with Weathers that have helped him control his impulsivity and his alcohol use. She observed that Petitioner has made good choices by avoiding activities that could trigger his impulsivity, by attaining a good work-life balance, and by turning to golf and physical exercise as coping mechanisms. Gursky pointed to Petitioner’s established support system—including his parents, his colleagues at Natelson’s law firm, and Weathers—as yet another protective factor.

Along similar lines, Gursky noted that Petitioner is employed on his family’s ranch and at Natelson’s law firm, and that he has a stable residence. Steady employment and residence were “huge protective factors” in decreasing the risk of reoffending, she said. In addition, she opined that Petitioner’s negative EtG test results confirm his candor and validate that his alcohol disorder remains in remission.

Finally, Gursky described her impressions of Petitioner based on her clinical interview, during which he demonstrated accountability for his criminal conduct. Gursky found Petitioner honest and transparent, noting that he seemed to sincerely recognize that he had a problem, that he needed to change and wanted to change to be a better person, and that he worked to accomplish that goal.

### III. LEGAL ANALYSIS

To be reinstated to the practice of law in Colorado under C.R.C.P. 242.39, a lawyer must prove by clear and convincing evidence that the lawyer is rehabilitated, has complied with applicable disciplinary orders and rules, and is fit to practice law. Reinstatement signifies that the lawyer possesses all of the qualifications required of applicants admitted to practice law in Colorado.

#### Rehabilitation

In deciding Petitioner’s petition to reinstate, the Hearing Board must determine whether Petitioner has been rehabilitated from his misconduct. In assessing Petitioner’s rehabilitation, we consider the circumstances and seriousness of his original misconduct, his conduct since being suspended, his remorse and acceptance of responsibility, how much time has elapsed, and evidence that he has changed in ways that reduce the likelihood of future misconduct.<sup>49</sup> These criteria provide a framework to assess the likelihood that Petitioner will again commit misconduct.<sup>50</sup>

---

<sup>49</sup> C.R.C.P. 242.39(d)(2)(A).

<sup>50</sup> Though restitution for financial injury is a criteria under C.R.C.P. 242.39(d)(2)(A), we need not address that factor here, as it does not apply in this case.

We consider at the outset the circumstances and seriousness of Petitioner’s misconduct. By definition, Petitioner’s felony conviction involves a serious crime.<sup>51</sup> We readily find he acted heinously in exchanging a sexually explicit picture of himself with someone whom he believed was a fourteen-year-old girl and taking steps to meet that person. Even so, the evidence in this matter strongly indicates that Petitioner’s criminal conduct was, in the main, aberrant and affected by factors that Petitioner has since taken great steps to mitigate. We credit Petitioner’s undisputed, albeit self-serving, testimony that he did not seek out underage persons on social media, and we rely on testimony from Gursky and Weathers that the results of Petitioner’s offense-specific evaluations were largely unremarkable except for his alcohol disorder. Though we are troubled by Petitioner’s inability to articulate a motive for his behavior other than boredom and curiosity, his testimony did not strike us as evasive or insincere. Indeed, Petitioner’s account is consistent with his description of his impulsivity, arrogance, and lack of respect for the law at the time of his misconduct. His account also comports with Weathers’s opinion correlating Petitioner’s alcohol abuse to his compromised boundaries and impaired judgment.

Petitioner submitted his petition to reinstate in August 2023, just over two years after his eighteen-month suspension took effect in July 2021. In our view, Petitioner has been occupied during his suspension refocusing his life to address the shortcomings that contributed to his misconduct. He has done so by making significant lifestyle changes and by fully committing himself to cognitive behavior therapy. Before Petitioner’s suspension began, he extracted himself from his isolation in Colorado and reintegrated with his family in New Mexico. He contributed to the operation of his family’s ranch and engaged in activities that supported his sobriety. Concurrent with those steps, Petitioner maintained his competence in legal practice through regular employment in a law office and staying current with his CLE requirements. In addition, he fully committed to his criminal probation and successfully moved to terminate the probation early, removing a potential legal hurdle to his effort to reinstate his law license. After filing his petition, Petitioner continued to address his shortcomings and to support his bid for reinstatement by resuming therapy and meeting regularly with a lawyer peer support group.

Admittedly, we initially viewed Petitioner’s argument that he is rehabilitated with some suspicion, given that he joined a peer support program after filing his petition but mere months before his hearing, he pursued EtG testing during the same period, and he re-enrolled in consistent therapy during that time. While a skeptic might view these actions as performative, taken in anticipation of a hearing to determine whether his law license should be reinstated—as we initially did—the evidence at hearing took on a decidedly different tenor: Petitioner realized that a stressful event was on the horizon and he put his self-care plan into action, taking the necessary steps to prevent a relapse by relying on his support systems to keep him accountable. Petitioner’s actions, which we find to be genuine, give us great confidence in his rehabilitation.

Likewise, we initially questioned the wisdom of Petitioner selecting golf as an activity that would support a budding sober lifestyle. But we are compelled by Howieson’s and Natelson’s

---

<sup>51</sup> See C.R.C.P. 241 (defining “serious crime” to include “any felony”).

testimony that Petitioner uses the game as a tool to ground himself and improve his focus, and that his golfing community not only supports but encourages his sobriety.

Finally, we find Petitioner's expressions of remorse at the hearing sincere. Similarly, we believe his manifold efforts to address his shortcomings reflect his acceptance of responsibility for his criminal conduct. Not once did we hear any suggestion that Petitioner committed a victimless crime. Rather, we were impressed and swayed by Petitioner's reflections on the harm he would have caused had Kylin actually been a real fourteen-year-old girl. We were also persuaded by Petitioner's sincere reflections on the effect his conduct has had on his family and the reputation of the legal profession.

In light of these findings, we conclude that Petitioner has demonstrated by clear and convincing evidence that he is rehabilitated.

### **Compliance with Disciplinary Orders and Rules**

We next turn to whether Petitioner has complied with all disciplinary orders and rules, as required under C.R.C.P. 2242.39(d)(2)(B). That subsection states that a lawyer petitioning for reinstatement must show compliance with all disciplinary orders and rules, including compliance with the Rules of Professional Conduct.

The parties agree that Petitioner has complied with all applicable disciplinary orders and with all provisions of Chapter 20 of the Colorado Rules of Civil Procedure, including the Colorado Rules of Professional Conduct, during his suspension from law.<sup>52</sup> Moreover, the People do not allege that Petitioner engaged in further misconduct. We thus find by clear and convincing evidence that Petitioner has complied with all disciplinary orders and rules.

### **Fitness to Practice Law**

Finally, we examine whether Petitioner is fit to practice law, as measured by whether he satisfies the eligibility requirements for the practice of law set forth in C.R.C.P. 242.39(d)(2)(C).

The parties stipulate to seven eligibility requirements.<sup>53</sup> Petitioner argues that the evidence admitted at the reinstatement hearing also shows he possesses the ability to use good

---

<sup>52</sup> Stip. Factors ¶ 1.

<sup>53</sup> See Stip. Factors ¶¶ 2-8 (stipulating that Petitioner meets the eligibility requirements set forth in C.R.C.P. 242.39(d)(2)(C)(i)-(iii), (vi), and (viii)-(x), which address, respectively, honesty and candor; the ability to reason logically, recall complex factual information, and accurately analyze legal problems; the ability to use a high degree of organization and clarity in communicating with clients, lawyers, judicial officers, and others; the ability to exhibit regard for the rights and welfare of others; the ability to act diligently and reliably in fulfilling obligations to clients, lawyers, courts, and others; the ability to be honest and use good judgment in personal financial



judgment on behalf of clients and in conducting professional business; the ability to comply with the Colorado Rules of Professional Conduct, laws, regulations, statutes, court rules, and orders of tribunals; and the ability to act with respect for and in accordance with the law.<sup>54</sup> Based on that evidence and the parties' stipulation as to the other requirements, Petitioner contends, he has met his burden to clearly and convincingly show that he is fit to practice law in Colorado. The People withdrew their opposition that Petitioner meets these requirements.

We find that Petitioner meets the eligibility requirements and, more broadly, that he is fit to practice law in Colorado. First, we are persuaded by Natelson's endorsement of Petitioner's skill in the workplace, particularly regarding Petitioner's ability to prioritize and complete work, his deference to Natelson's authority, and his judgment in identifying issues that require Natelson's involvement. Moreover, Petitioner's awareness of his vulnerabilities concerning alcohol, his commitment to a lifestyle that promotes his sobriety, and his voluntary participation in therapy further convince us that he possesses the requisite good judgment to practice law in Colorado. In arriving at that conclusion, we are influenced by Weathers's testimony that Petitioner resumed counseling to cope with the stress of this reinstatement proceeding.

Turning to the remaining eligibility requirements, we find that Petitioner has convincingly demonstrated that he is able to comply with applicable professional and legal rules, statutes and regulations, and court orders. We are also satisfied that he can act with respect for and in accordance with the law. We so determine because Petitioner has fully complied with all disciplinary orders and rules, has fully complied with his criminal probation, even obtaining early termination of his probation, and is meeting his CLE requirements. We also credit Petitioner's candid testimony that he has developed a sincere respect for the law during his suspension, which Natelson and Howieson echoed in their testimony. Finally, we note Gursky's and Weathers's opinions that Petitioner does not exhibit pro-criminal tendencies and is at the lowest possible risk level for committing another sex offense.

In sum, Petitioner has shown he meets the essential eligibility requirements that Colorado lawyers must satisfy. We thus find that he has met his burden to demonstrate his fitness to practice law in Colorado.

## V. CONCLUSION

Petitioner has proved by clear and convincing evidence that he is rehabilitated, that he has complied with all disciplinary orders and rules during his suspension, and that he is fit to practice law. Further, the People signaled that they no longer oppose Petitioner's reinstatement. We thus reinstate him to the practice of law in Colorado under C.R.C.P. 242.39.

---

dealings and on behalf of clients and others; and the ability to comply with deadlines and time constraints). The parties agree that Petitioner is competent to practice law. Stip. Factors ¶ 9.

<sup>54</sup> C.R.C.P. 242.39(d)(2)(C)(iv)-(v), (vii).

We congratulate Petitioner on his sober journey and wish him continued success and health. More importantly, we welcome Petitioner back into the fold of active lawyers. We do so while encouraging Petitioner to stay engaged with his professional and personal support systems and to continue using the tools he credits for his rehabilitation.

VI. ORDER

The Hearing Board therefore **ORDERS**:

1. The Hearing Board **GRANTS** Petitioner's "Verified Petition for Reinstatement [Under] C.R.C.P. 242.39." Petitioner **RICHARD A. HOWIESON**, attorney registration number **50108**, is **REINSTATED** to the practice of law in Colorado, **EFFECTIVE IMMEDIATELY**.
2. Under C.R.C.P. 242.39(g)(1), Petitioner **MUST** pay the costs of this proceeding. The People **MUST** submit a statement of costs on or before **Wednesday, June 12, 2024**. Petitioner **MUST** file his response, if any, within seven days. 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. Any posthearing motion **MUST** be filed with the Hearing Board on or before **Wednesday, June 19, 2024**. Any response thereto **MUST** be filed within seven days.
4. The People have the right to appeal the Hearing Board's decision to grant Petitioner's petition for reinstatement under C.R.C.P. 242.39(e)(6) and C.R.C.P. 242.34.



DATED THIS 5<sup>th</sup> DAY OF JUNE, 2024.

A handwritten signature in blue ink, appearing to read "Bryon M. Large".

BRYON M. LARGE  
PRESIDING DISCIPLINARY JUDGE

A handwritten signature in blue ink, appearing to read "Kyle J. Martelon".

KYLE J. MARTELON  
HEARING BOARD MEMBER

A handwritten signature in blue ink, appearing to read "Shari Plantz-Masters".

SHARI PLANTZ-MASTERS  
HEARING BOARD MEMBER