

ORIGINAL

FILED

May 4 2016

*Ed Smith*  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA

Case Number: AF 11-0244

Bill Williams  
324 Main SW  
Ronan, MT 59864

AF 11-0244

May 2, 2016

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CLERK OF THE SUPREME COURT  
STATE OF MONTANA

Ed Smith  
Clerk of the Supreme Court  
State of Montana  
PO Box 203003  
Helena, MT 59620-3003

Re: Recommendation to Lower the Passing Score for MT Bar Exam  
Case Number: AF 11-0244

To Whom It May Concern:

This is in regard to the Montana Supreme Court's request for public comment for the proposal made by a Committee which was formed to review the poor passage rates as of late with regard to the Montana Bar Exam. The Committee has suggested that the Court lower the passing score from the current required score of 270 to a 266 effective immediately and that anyone who has taken the Montana Bar Exam and scored a 266-269 in the past three years be eligible to seek admission to the Bar without re-taking the Bar Exam.

Currently, there are 22 states and the District of Columbia which have adopted the UBE, South Carolina is the most recent and will not be implementing the UBE until the February 2017 Exam (they also have yet to set their required passing score). The UBE was adopted and first administered in Montana in July of 2013. At that time and to this day the required passing score is 270.

Here is a list of the current 21 states and the District of Columbia along with their required passing score for the UBE:

1. Alabama – 260;
2. Alaska – 280;
3. Arizona – 273;
4. Colorado – 276;
5. District of Columbia – 266;
6. Idaho – 280;

7. Iowa – 266;
8. Kansas – 266;
9. Minnesota – 260;
10. Missouri – 260;
11. Montana – 270;
12. Nebraska – 270;
13. New Hampshire – 270;
14. New Jersey – 266;
15. New Mexico – 260;
16. New York – 266;
17. Pennsylvania – 272;
18. Utah – 270;
19. Vermont – 270;
20. Washington – 270;
21. Wyoming – 270.

As you can see, Western states which have implemented the UBE require passing scores of 270 (Washington, Wyoming, Utah), 273 (Arizona), 276 (Colorado) and 280 (Idaho). Montana also currently requires a 270 score to pass the Bar Exam.

I believe that lowering the required Bar passage score would flood Montana with marginally qualified attorney's that couldn't pass in other states and that would then simply take the score from the state they were unable to pass in and move for admission in Montana with the lower score which they received.

I understand that law schools are ranked, and part of that rankings system is the Bar passage rates. As of late it appears that the University of Montana's Law School students have had a quite difficult time passing the Montana Bar Exam, which I'm sure reflects negatively on the Law School and its national ranking. However, I don't believe that the school of law's national ranking should factor into the required Bar passage score.

Lowering the required score shows that either the committee which put together the original passing score, which was and still requires a 270 to pass the Montana Bar Exam, was not competent and failed to do an adequate job in researching what the required score should be to pass the newly implemented UBE – which I do not believe to be the case; or that the current group of Bar Examination takers have proved to be lacking, in that they are incapable of accumulating a passing score on the Montana Bar Exam – are going to force the State of Montana to reduce the passing score to accommodate them. I believe that it is the latter.

It appears that for the 2015 Bar passage rates for the February and July exams, the states which have implemented the UBE and which require a passing score of 270 or greater, according to National Conference of Bar Examiners and the information provided here:

[http://www.ncbex.org/assets/media\\_files/Bar-Examiner/articles/2016/BE-March2016-2015Statistics.pdf](http://www.ncbex.org/assets/media_files/Bar-Examiner/articles/2016/BE-March2016-2015Statistics.pdf) is as follows:

| State         | Required Passing Score | February Pass Rate | July Pass Rate | Total 2015 Pass Rate |
|---------------|------------------------|--------------------|----------------|----------------------|
| Alaska        | 280                    | 65%                | 60%            | 62%                  |
| Arizona       | 273                    | 58%                | 57%            | 57%                  |
| Colorado      | 276                    | 62%                | 72%            | 69%                  |
| Idaho         | 280                    | 70%                | 68%            | 69%                  |
| Montana       | 270                    | 74%                | 62%            | 66%                  |
| Nebraska      | 270                    | 59%                | 80%            | 76%                  |
| New Hampshire | 270                    | 56%                | 70%            | 67%                  |
| Pennsylvania  | 272                    | 53%                | 71%            | 66%                  |
| Utah          | 270                    | 80%                | 74%            | 76%                  |
| Vermont       | 270                    | 48%                | 52%            | 50%                  |
| Washington    | 270                    | 66%                | 76%            | 73%                  |
| Wyoming       | 270                    | 83%                | 70%            | 74%                  |

I would suggest rather than lowering the required Bar passage score, that maybe the UM School of Law look into what the Law Schools at the Universities of Washington, Utah, Wyoming, and Nebraska are doing to prepare their students. As assuming that those students are who sat for those states respective Bar Exams (which again is an assumption, because not all Montana Bar Exam applicants and examinees attended the University of Montana), it would appear that they are better prepared to take the Bar Exam as reflected by the higher passage rates while still requiring the same passing score of 270 as Montana currently requires.

I don't believe the current system is broken. Yes, the Bar passage rates might have fallen in the most recent years, but maybe that isn't a bad thing. The Bar Exam is a prerequisite to being admitted to the practice of law in Montana and other states. The purpose thereof is to prove that the applicant/examinee has accumulated sufficient legal knowledge to effectively and diligently represent clients, as well as to be an accurate reflection of attorneys which the State Bar of Montana is composed of. So as a current member of the State Bar of Montana, who has taken and passed the UBE Montana Bar Exam, I would prefer not to lower the bar which is required to join our ranks.

I feel that lowering the required passing score of the Montana Bar Exam is catering to those that are unable, or unwilling, to put in the time and effort which it takes to pass the Bar Exam. Doing so reinforces that inability or unwillingness and does nothing to require the examinees to 'buckle down' and simply study harder. Our neighbor to the West, Idaho requires a passing score of 280 and yet they have a higher 2015 passage rate than Montana. Does that mean that they are receiving more qualified examinees to take their Bar Exam? Does that mean that the Idaho School of Law does a better job of preparing their students to pass the Bar Exam? Or is it simply a mere anomaly that Idaho requires a higher passing score and also has had higher passage rates?

I don't have the answers, but I do not think that lowering the required passing score and allowing sub-standard examinees to be allowed to practice law in Montana is the key to success. I believe that doing so would put Montana residents who are going to be clients of those examinees one day at a disadvantage. I believe that it would also put the State Bar of Montana in lower standing

as it would appear that the State Bar of Montana is willing to accept substandard applicants to their ranks and that their new slogan should be "If you can't pass the Bar in Idaho, Washington, Wyoming, Utah, or Colorado then simply apply here!"

I equate it to having lower scores in school. A 4.0 isn't going to be given to a student who has B- grades across the board, simply because that student has the best grades. So why would we lower the standards of a respected and revered profession such as the legal profession and allow those that can't obtain the current requirements (obtaining a 270 on the UBE Bar Exam), an easy way out and lower the required score to become a member of the State Bar of Montana?

In 2015 there were 118 applicants/examinees that passed the Montana Bar Exam and which were granted the privilege to become licensed attorneys and members of the State Bar of Montana, I was lucky enough to join the ranks in 2014. In a given year the University of Montana School of Law admits 75 first year students, therefore it would appear for the 2015 year that even if the UM Law School didn't have all of their graduating class pass the Bar, that a fair number of attorney's which sat for the Bar were able to pass.

I believe that the required passing score should remain at 270, and that the Montana School of Law should look at their students and possibly making changes to their Bar Exam preparation class which they provide their students, or possibly even look at making changes to the school's curriculum to address the deficiencies which they found to be present. I don't believe making an institutional change to the State Bar of Montana is the answer to the School of Laws low passage rates.

Sincerely,

A handwritten signature in black ink, appearing to read "Bill Williams", with a long, sweeping horizontal stroke extending to the right.

Bill Williams  
MT Bar No.: 13216