

ORIGINAL

FILED

07/20/2021

Bowen Greenwood  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA

IN THE SUPREME COURT OF THE STATE OF MONTANA

FILED

Case Number: PR 06-0422

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JUL 20 2021

Bowen Greenwood  
Clerk of Supreme Court  
State of Montana

ORDER

IN RE COLTON COFFEE, AFTON JESSOP,  
JOHN MILLER, DEANNA ROTHWELL,  
SHANE ST. ONGE, and MADELINE M. CLARKE

Colton Coffee, Afton Jessop, John Miller, Deanna Rothwell, and Shane St. Onge (Joint Petitioners) have petitioned for leave to sit for the Montana Bar Examination scheduled for next week, July 27-28, 2021, which would require a rule waiver. Madeline M. Clarke has individually petitioned for the same relief, and we consider the petitions together herein.

Joint Petitioners are 2021 graduates of the Alexander Blewett III School of Law at the University of Montana. They timely submitted bar exam application materials to the National Conference of Bar Examiners (NCBE) and the State Bar of Montana by the March 15, 2021, deadline. However, they failed to submit the requisite authorization and release form to NCBE in the manner instructed on the application checklist; that is, according to the Petition, four of the Joint Petitioners mailed a hard copy of the form instead of emailing it, while one of the Joint Petitioners emailed her form to an incorrect email address. The Joint Petitioners heard nothing further about the status of their NCBE applications until June 3, 2021, when each received an email from NCBE explaining that their forms had not been properly submitted, and requesting resubmission. There is no indication in the NCBE communications, attached to the Petition, of the reason for the timing of this notification, other than the time necessary for processing of applications. While each of the Joint Petitioners promptly resubmitted a proper release form to NCBE, the delay resulted in NCBE's inability to complete the Character and Fitness review in time for them to take the July 2021 bar exam. Rule 102B of the Board of Bar Examiner Rules provides, "An applicant may not sit for the Montana Uniform Bar Examination unless the applicant has been duly certified or conditionally certified by the Commission on Character and Fitness." On July 13, 2021, the Joint Petitioners received notice from the Montana Bar

Admissions Administrator that certification to sit for the bar exam was denied by the Commission on Character and Fitness due to NCBE's advisory that the delay in form submission by the Joint Petitioners made it "impossible for [NCBE] to complete the investigation." The Petition states that requiring the Joint Petitioners "to wait until February 2022 will impair Petitioners' job prospects and cause significant mental, emotional, and financial strain."

Madeline M. Clarke's petition does not state what law school she attended, but explains she also submitted her bar examination application materials in March, and likewise sent her NCBE release form to the incorrect email address. She received notice of this error in June 2021 and, as a result, her Character and Fitness review will not be completed in time to sit for the July 2021 bar exam. Clarke is scheduled to begin employment in Montana on August 30. All of the Petitioners request permission to take the July bar exam pending completion of their Character and Fitness reviews, allowing them to proceed to bar admission upon successful passage of both, and requiring waiver of Rule 102.

We recognize the issue here arose because, by the time the Petitioners learned about their errors in submitting the requisite forms, insufficient time apparently remained to complete the Character and Fitness review necessary to sit for the July exam, and, therefore, we conclude there is good cause for the relief requested. We caution that it would not be prudent, and is not our intent, to create a "safety net" for applicants who fail to timely satisfy exam application requirements, and that this order should serve as fair notice about the requisite care to be given to the application process. Therefore,

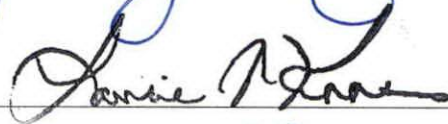
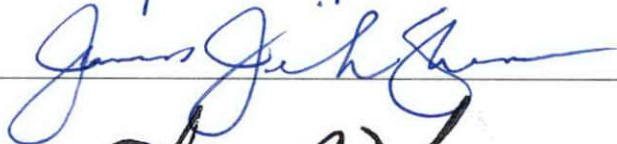
IT IS HEREBY ORDERED that the Petitions of Joint Petitioners and Madeline M. Clark for waiver of Rule 102, Board of Bar Examiner Rules, prohibiting an applicant from sitting for the Montana Bar Examination unless "duly certified" by the Commission of Character and Fitness, for purpose of sitting for the July 2021 administration of the examination, are GRANTED. Petitioners may sit for the July 2021 examination pending completion of their Character and Fitness certifications.

Copies of this order shall be provided to the Petitioners and to the State Bar of Montana.

DATED this <sup>4<sup>th</sup></sup>20 day of July, 2021.



Chief Justice



Justices