

STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH AND ADDICTION SERVICES

Joseph Luca
c/o William Gerace, Esq.
Slitt & Gerace
Capitol Place
21 Oak Street, Suite 604
Hartford, CT 06106

MEMORANDUM OF DECISION
ON REINSTATEMENT REQUEST

PROCEDURAL BACKGROUND:

Joseph Luca ("Mr. Luca" or "Petitioner") previously held master barber license number 2531. The Connecticut Examining Board for Barbers, Hairdressers, and Cosmeticians ("Board") revoked Mr. Luca's master barber license by Memorandum of Decision dated September 30, 1991. (Department Exhibit 2). The Board revoked Mr. Luca's license because he was habitually intoxicated or habitually addicted to the use of cocaine, in violation of Connecticut General Statutes §20-238. (Department Exhibit 2).

In its Memorandum of Decision, the Board ordered that if Mr. Luca sought reinstatement of his master barber license at any time in the future, he should appear before the Board to

1/ At the time of this hearing, this agency was known as the Department of Health Services. Effective July 1, 1993, the Department of Health Services merged with the Connecticut Alcohol and Drug Abuse Commission to form the new Department of Public Health and Addiction Services. Public Act No. 93-381.

determine if his license should be reinstated and under what conditions. (Department Exhibit 2).

On February 16, 1993, Mr. Luca petitioned the Board for reinstatement of his master barber license. In response to this request, the Board issued a Notice of Hearing dated March 31, 1993. (Department Exhibit 1).

Pursuant to the Notice of Hearing, the Petitioner had the burden of satisfying the Board that he is able to practice as a master barber with reasonable skill and safety by presenting evidence regarding:

1. Documentary or testimonial evidence from a licensed therapist documenting his drug free status, emotional health, and ability to administer safe master barber care;
2. Personal references stipulating, but not limited to the following: his drug free status, emotional health, and work habits;
3. Documentary or testimonial evidence from his current and past employers regarding his employment performance;
4. Copies of random screens for drugs and alcohol, conducted by his therapist and/or physician, which support his drug free status; and

5. A plan to update his knowledge and skills.

The Board held an administrative hearing to consider the Petitioner's request for reinstatement on May 10, 1993 and during that hearing took administrative notice of the record regarding the Board's prior decision to revoke Mr. Luca's master barber license. The Petitioner appeared with his attorney, William Gerace, Esq.; Stephen Varga, Esq. represented the Department of Public Health and Addiction Services ("Department"). This decision is based entirely on the record and the specialized professional knowledge of the Board in evaluating the evidence.

FINDINGS OF FACT:

1. The Petitioner worked as an officers' barber at the Connecticut Department of Correction beginning in approximately June, 1992. Mr. Luca received excellent ratings in work attitude and barbering skills. (Respondent Exhibit E).
2. The Petitioner has been under the care of a licensed therapist for treatment of his drug dependency. He was a resident at the West Haven VA Medical Center ("VA") and was involved in the PTSD Residential Rehabilitation Program ("PRRP"). (Respondent Exhibit A).

3. By letter dated April 5, 1993, Pat McDonough, M.S.W., C.A.C. stated that during Mr. Luca's stay at the VA, his ongoing breathalyzer test and urine test screens were all negative. Mr. McDonough indicated that Mr. Luca is a contributing member in PRRP who has demonstrated personal growth and involvement in community service programs. (Respondent Exhibit A).

4. John Rodican, a Health Care Tech at the VA, has worked with Mr. Luca for five months. Mr. Rodican submitted a letter asserting that the Petitioner has never demonstrated any behavior that suggests drug or alcohol use or abuse. Mr. Luca has always exhibited a positive attitude. (Respondent Exhibit B).

5. Mr. Luca has been volunteering at the West Lake Lodge Nursing Home ("West Lake") for several months. By letter dated May 4, 1993, Patricia Martorella, Therapeutic Recreation Director at West Lake, indicated that Mr. Luca has been helpful and caring to residents and staff. (Respondent Exhibit D).

6. Rev. Julio C. Colon, Chaplain with the Department of Corrections, has known the Petitioner a little over four years. By letter dated October 29, 1992, Rev. Colon

stated that Mr. Luca has demonstrated a deep concern for others, has served as an example of leadership, and has undergone a degree of change that Rev. Colon has rarely encountered under these circumstances. (Respondent Exhibit I).

7. The Petitioner's urine drug screen reports from the VA were negative on the following dates in 1993: January 14, 18, 25, 27; February 1, 2, 8, 23; March 1, 16, 21, 25, 30; and April 5, 11, 19, 26. (Respondent Exhibit C).
8. The Petitioner will continue to submit to drug testing at the VA for the rest of his life. Mr. Luca agreed to sign a waiver entitling the Board to automatically receive copies of the VA drug testing reports on a regular basis. (Transcript 5/10/93 pp. 39-40).
9. The Petitioner has never stopped practicing as a barber. He has been assisting others on a voluntary basis since the Board revoked his license. Mr. Luca plans to teach at the New England School of Hairdressing as soon as his license is reinstated. (Transcript 5/10/93 pp. 27-31).

CONCLUSIONS OF LAW:

Based on the evidence presented at the hearing, the Board concludes that the Petitioner has met his burden of satisfying

the Board that he is able to practice as a master barber with reasonable skill and safety.

ORDER:

Pursuant to its authority vested in it by General Statutes of Connecticut §19a-17, the Board hereby orders the following:

1. Joseph Luca's master barber license number 2531 shall be reinstated to probationary status.
2. The license of the Petitioner shall be placed on probation for a period of five (5) years.
3. If any of the following conditions of probation are not met, the Petitioner's license may be immediately revoked:
 - A. The Petitioner shall abstain from alcohol and drugs.
 - B. The Petitioner shall sign a waiver entitling the Board to automatically receive copies of his VA drug testing reports on a regular basis.
 - C. The Petitioner shall be responsible for submitting to random urine and/or blood screens for alcohol and drugs for the entire probationary period, at the discretion of the VA and/or his personal physician.

Such screens shall be legally defensible because the specimen donor and chain of custody shall be identified throughout the screening. The Petitioner shall be responsible for notifying the laboratory and his personal physician of any drug(s) he is taking. There shall be at least one such alcohol and drug screen monthly for the entire period of probation.

Said screens shall be negative for alcohol and drugs. All positive results shall be confirmed by a second independent testing method. Reports of monthly random alcohol and drug screens are due by the first business day of each subsequent month. Monthly alcohol/drug screen reports shall commence with the report due on the first business day of the first month following the effective date of this Order.

- D. The random alcohol/drug screens cited in paragraph C above shall be ordered and collected at the VA.

- E. The Petitioner shall not obtain for personal use and/or abuse alcohol or any drug that has not been prescribed for him for a legitimate purpose by a licensed health care practitioner.

- F. The Petitioner's licensed therapist at the VA shall submit monthly reports to the Board documenting his drug free status, emotional health, and ability to administer safe master barber care.
- G. The Board shall be informed in writing prior to any change of employment.
- H. The Board shall be informed in writing prior to any change of address.
- I. The Petitioner shall provide a copy of this Memorandum of Decision to any and all employers. Within thirty (30) days of the effective date of this Order, each current employer shall notify the Board in writing as to receipt of a copy of this Memorandum of Decision.
- J. Should the Petitioner change employment at any time during the probationary period, he shall provide a copy of this Memorandum of Decision to his new employer(s). Said employer(s) shall notify the Board in writing, within thirty (30) days, as to receipt of a copy of this Memorandum of Decision.
- K. The Petitioner shall see that the Board receives quarterly employer reports from his supervisor for the

entire period of probation. Quarterly employer reports are due by the first business day of January, April, July, and October. Quarterly reports shall commence with the report due October 1, 1993.

- L. The reports cited in paragraph K above shall include documentation of the Petitioner's ability to safely and competently practice as a master barber.

- M. All correspondence and reports are to be addressed to:

CONNECTICUT EXAMINING BOARD FOR BARBERS, HAIRDRESSERS,
AND COSMETICIANS
Department of Public Health and Addiction Services
150 Washington Street
Hartford, CT 06106

- 4. Any deviation from the terms of probation without prior written approval from the Board will constitute a violation of probation and will subject the Petitioner to sanctions under Connecticut General Statutes §19a-17(a) and (c), including but not limited to the revocation of his license. Any extension of time or grace period for reporting granted by the Board shall not waive or preclude the Board's right to take action at a later time. The Board shall not be required to grant any future extension of time or grace periods. Notice of revocation or other disciplinary action shall be sent to the Petitioner's

address of record, which is the most current address reported to the Board, or to the Licensure and Renewal Section of the Department's Division of Medical Quality Assurance.

5. Mr. Luca shall be assessed a civil penalty of five hundred dollars (\$500.00). The five hundred dollar (\$500.00) civil penalty shall be paid by certified check, payable to Treasurer, State of Connecticut, sent to the Public Health Hearing Office, State of Connecticut Department of Public Health and Addiction Services, 150 Washington Street, Hartford, CT 06106, and due by the end of Mr. Luca's five (5) year probationary period. The certified check shall include Mr. Luca's name and master barber license number on its face for identification purposes. If the Board does not receive this fee by the end of the Petitioner's five (5) year probationary period, his license shall be revoked.

6. This Order becomes effective upon the signature of the Board chairperson.

Connecticut Examining Board for
Barbers, Hairdressers, and Cosmeticians

9-20-93
Date

Reno Pelletier
by: Reno Pelletier, Chairperson