

Supreme Court Case No. S278539

**IN THE SUPREME COURT
OF THE STATE OF CALIFORNIA**

In the Matter of James Camper III

ANSWER TO PETITION FOR REVIEW

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I. INTRODUCTION

Petitioner James Camper III (“Petitioner”) is a law student who is ineligible to sit for the California bar examination because he does not meet the eligibility requirements set forth in State Bar Rule (“Rule”) 4.26, which in relevant part, requires that an applicant must have either received a juris doctor or bachelor of laws degree from an accredited law school, or have demonstrated compliance with the legal education requirements set forth in California Business and Professions Code section 6060, subdivision (e)(2), which generally requires four years of qualifying legal study. Petitioner applied for and was deemed ineligible for the February 2022 and July 2022 bar examinations because he did not meet the requirements of State Bar Rule 4.26. In January 2023, Petitioner requested that the Committee of Bar Examiners (“Committee”) allow him to sit for the February 2023 bar examination, notwithstanding the fact that he did not meet the requirements of Rule 4.26. The Committee reviewed and declined his request for an exception to Rule 4.26. By this petition, Petitioner seeks review of the Committee’s decision, even though he admits that he does not meet the eligibility requirements of Rule 4.26.

This petition should be summarily denied. First, the Committee correctly determined that Petitioner did not meet the eligibility requirements of Rule 4.26, and Petitioner has failed to provide an adequate record as required by Rule of Court 9.13, subdivision (e), that would support reversal of that decision. Second, Petitioner’s dispute with his law school is not properly before this Court. Third, Petitioner’s constitutional challenges to the Committee’s decision lack any merit. There is no basis to reverse the Committee’s decision and as such, the petition should be denied in its entirety.

II. BACKGROUND

A. This Court Has Plenary Authority Over Admissions Matters.

The State Bar of California (“State Bar”) is a constitutional entity established in California’s judicial branch. (Cal. Const., art. VI, § 9.) It is a public corporation that assists the California Supreme Court in attorney admission and discipline matters. (Cal. Stats. 1927, Ch. 34, Cal. State Bar Act, codified at Bus. & Prof. Code, §§ 6001 *et seq.*; *In re Attorney Discipline Sys.* (1998) 19 Cal.4th 582, 611; *Saleeby v. State Bar of Cal.* (1985) 39 Cal.3d 547, 557.) The State Bar’s assistance to the Supreme Court in this area has been expressly acknowledged as an integral part of the Supreme Court’s judicial function. (*Obrien v. Jones* (2000) 23 Cal.4th 40, 48; *In re Rose* (2000) 22 Cal.4th 430, 446, fn. 8.)

Pursuant to its authority under the State Bar Act (Bus. & Prof. Code, §§ 6000 *et seq.*), the State Bar’s Board of Trustees established the Committee of Bar Examiners and delegated to it the power to: (a) examine all applicants for admission; (b) administer the requirements for admission to practice; and (c) certify to the California Supreme Court for admission those applicants who fulfill the requirements. (Bus. & Prof. Code, § 6046; *Greene v. Zank* (1984) 158 Cal.App.3d 497, 505.)

The Committee functions as an administrative arm of the Court in administering the bar examination and certifying applicants who have fulfilled the admission requirements. (Bus. & Prof. Code, §§ 6060, 6064; *Greene v. Zank, supra*, 158 Cal.App.3d at p. 504-505.) Although both the Legislature and this Court possess the authority to establish rules regulating admission to the State Bar and a license to practice law, this Court bears the ultimate authority over admissions matters. (See *In re Garcia* (2014) 58 Cal.4th 440, 451-452.)

B. The Admissions Rules Set Forth the Eligibility Requirements for the Bar Examination.

Pursuant to California Rule of Court 9.5, this Court approves rules adopted by the Committee pertaining to the admission to practice law. (Cal. Rules of Court, rule 9.5.) Title 4, Division 1 of the State Bar Rules, sets forth the eligibility requirements for applicants seeking to take the California bar examination. (Rules of the State Bar of Cal., tit. IV, div. 1.) Rule 4.26 states:

General applicants for the California Bar Examination must

(A) have received a juris doctor (J.D.) or bachelor of laws (LL.B) degree from a law school approved by the American Bar Association or accredited by the Committee; or

(B) demonstrate that in accordance with these rules and the requirements of Business & Professions Code §6060(e)(2) they have (1) studied law diligently and in good faith for at least four years in a law school registered with the Committee; in a law office; in a judge's chambers; or by some combination of these methods; or (2) met the requirements of these rules for legal education in a foreign state or country; and

(C) have passed or established exemption from the First-Year Law Students' Examination.

(Rules of the State Bar of Cal., rule 4.26.) If an applicant does not meet the requirements of Rule 4.26, the applicant is not permitted to sit for the California Bar Examination.¹

¹ Notably, these requirements are specific to eligibility to sit for the California bar examination. California Business and Professions Code section 6060 sets forth the requirements for admission to practice. (*Ibid.*) If Petitioner is permitted to sit for the bar examination, the Committee would still be unable to certify him for admission to practice law because California Business and Professions Code sets forth similar legal education requirements for admission to practice law, which the State Bar cannot waive. (*Ibid.*)

C. By His Own Admission, Petitioner Does Not Satisfy the Eligibility Requirements of Rule 4.26.

By letter dated January 31, 2023, the State Bar notified Petitioner that the Committee had determined that Petitioner did not satisfy the legal education requirements of Rule 4.26. (Petition, Exhibit PR-1.) Petitioner admits he has not received a juris doctor degree and does not even allege that he satisfies the alternative eligibility requirement of four years of legal study. (Petition at p. 1.)

III. ARGUMENT

A. The Committee Correctly Determined That Petitioner Is Ineligible to Sit For the Bar Examination.

The only question properly before this Court is whether the Committee correctly determined that Petitioner failed to meet the eligibility requirements to sit for the bar examination. The answer is clearly yes. Under Rule 4.26, an applicant can meet the legal education requirements for establishing eligibility for the bar examination by either receiving a juris doctor degree or bachelor of laws degree from a law school approved by the American Bar Association or accredited by the Committee, or by completing four years of legal education, as defined in California Business and Professions Code section 6060, subdivision (e)(2). (Rules of the State Bar of Cal., rule 4.26.) Petitioner admits that he has not received a juris doctor degree. (Petition at p. 1.) While Petitioner argues that his school improperly withheld that degree, that issue is not properly before this Court as discussed *infra*. Further, he has not alleged or argued that he has completed four years of legal study, and Petitioner failed to provide a sufficient record for this Court to evaluate his eligibility on that basis. (Rule of Court, rule 9.13 subds. (e)(2), (4).) On a petition for review, the burden is on Petitioner to show that the Committee's decision was erroneous and unlawful, but he has failed to meet that burden here. (See *Salot v. State Bar of Cal.* (1935) 3 Cal.2d 615, 617.)

B. Petitioner’s Dispute With His Law School is Not Properly Before This Court.

Rule of Court 9.13, subdivision (d) permits an applicant to request review of a decision of the Committee; it does not provide a vehicle for applicants to challenge the actions of their law schools. (*Ibid.*) The Committee’s decision – that Petitioner failed to satisfy the eligibility requirements to sit for the bar examination – is the only reviewable issue contained in this petition. While Petitioner seeks to challenge his law school’s decision to withhold his degree, he is currently litigating the lawfulness of that decision in superior court, the proper venue for him to pursue a dispute with his law school. (Petition at p. 2.) Furthermore, even if this Court was inclined to exercise jurisdiction over that dispute, Petitioner has failed to provide any record for this Court to review. (Rule of Court, rule 9.13, subd. (e)(2).)

C. Petitioner’s Due Process Arguments Lack Merit.

Even assuming *arguendo* that plaintiff sufficiently articulated a protected liberty or property interest that would entitle him to due process, the State Bar admissions process provides constitutionally sufficient procedural due process. (See *Giannini v. Real* (9th Cir. 1990) 911 F.2d 354, 358 [no fundamental right to practice law or take the bar examination]; but see *Hallinan v. Committee of Bar Examiners of State Bar of Cal.* (1966) 65 Cal.2d 447, 475, fn. 3 [citing U.S. Supreme Court and California Supreme Court cases that characterize a claim for admissions as a claim of right entitled to due process protection].) “[D]ue process is flexible and calls for such procedural protections as the particular situation demands.” (*Conway v. State Bar of Cal.* (1989) 47 Cal.3d 1107, 1113 (internal quotation and citation omitted.)) After the State Bar determined that Petitioner was ineligible for the bar examination, he sought review by the Committee. (Petition at p. 5.) The Committee considered his request, and determined that he was ineligible

for the bar examination. (Petition at pp. 1, 2, 5.) Pursuant to the authority delegated to it by this Court, the Committee administers the requirements for admission. (Bus. & Prof. Code, § 6046; Rules of Court, rules 9.3-9.6.) An applicant may challenge decisions made by the Committee or State Bar by petitioning the California Supreme Court for review, which is precisely what Petitioner has done here. (Rule of Court, rule 9.13, subd. (d).) Petitioner's right to seek review by the California Supreme Court provides Petitioner with an additional layer of procedural due process that is "more than constitutionally sufficient." (*In re Rose, supra*, 22 Cal.4th at p. 458 (internal quotation and citation omitted).))

Substantive due process rights guard against the government's arbitrary exercise of power without reasonable justification. (*County of Sacramento v. Lewis* (1998) 523 U.S. 833, 845-846.) To set forth a Fourteenth Amendment substantive due process claim, the plaintiff must establish that he has either a protectable liberty or property interest encompassed by the Fourteenth Amendment, and once a plaintiff has identified such a right, the court considers whether the government's deprivation of that right was "arbitrary in the constitutional sense." (*Id.* at p. 846.) "There is no fundamental right to practice law or take the bar examination." (*Giannini, supra*, 911 F.2d at p. 358.) Thus, Plaintiff cannot establish a fundamental right protected by the due process clause. Additionally, substantive due process only guards against governmental action where the interference with property rights is irrational or arbitrary. (*Shanks v. Dressel* (9th Cir. 2008) 540 F.3d 1082, 1088-1089.) Plaintiffs have an "exceedingly high burden" to prove that particular government action was "constitutionally arbitrary." (*Id.* at p. 1088 (citations omitted).) Petitioner has not alleged any constitutionally arbitrary conduct and as such, he has failed to establish a substantive due process violation.

D. Petitioner’s Equal Protection Arguments Lack Merit.

To the extent Petitioner argues that his equal protection rights were violated because applicants who have received a juris doctor degree are treated differently than those who have not received a juris doctor degree, as this Court has stated, the appropriate test in examining claims of discrimination in professional licensing is rational basis review. (*Bib’le v. Committee of Bar Examiners* (1980) 26 Cal.3d 548, 555; *Warden v. State Bar of Cal.* (1999) 21 Cal.4th 628, 642-643.) While Petitioner argues that he has been denied his degree based on wealth, nothing in Rule 4.26 creates a classification based on wealth. (Rules of the State Bar of Cal., rule 4.26.) Additionally, Petitioner cites no case law that supports the proposition that wealth is a suspect classification with respect to higher education or professional licensure. (See *Serrano v. Priest* (1971) 5 Cal.3d 584, 597 (public financing of public schools); *Serrano v. Priest* (1976) 18 Cal.3d 728, 765-766 (same).) Under the rational basis test, “the rules here under attack have a presumption of constitutionality and require only that the distinctions drawn bear some rational relationship to a conceivable legitimate state purpose.” (*Bib’le, supra*, 26 Cal.3d at p. 555.) Where there is any plausible reason for the classification, the Court’s inquiry ends. (*Warden, supra*, 21 Cal.4th at p. 644 (citations omitted).) As this Court has described, “there is a rational basis for the different treatment of students receiving instruction at accredited and unaccredited schools.” (*Ibid.*) Petitioner cannot meet his “burden of negating every conceivable basis which might support the legislative classification whether or not the basis has a foundation in the record,” and therefore, his petition should be dismissed. (See *Fields v. Legacy Health System* (9th Cir. 2005) 413 F.3d 943, 955 (citations omitted).)

Further, in assessing the rationality of treating applicants who have received juris doctor degrees differently than those who have not, the Court must “evaluate the classifications as a whole” and not the individuals within

the classifications. (*Warden, supra*, 21 Cal.4th at p. 647.) The equal protection clause ensures that “all persons similarly situated should be treated alike.” (*City of Cleburne v. Cleburne Living Ctr., Inc.* (1985) 473 U.S. 432, 439 (emphasis added).) Here, Petitioner does not seek equal treatment; he seeks different treatment – an exception to the rule. Although he alleges the juris doctor requirement is unfair in his case, “the Fourteenth Amendment guarantees equal laws, not equal results.” (*Personnel Adm. of Mass. v. Feeney* (1979) 442 U.S. 256, 273.)

IV. CONCLUSION

The Committee correctly determined that Petitioner did not meet the requirements of State Bar Rule 4.26 and was ineligible to sit for the bar examination. Petitioner admits he has not received a juris doctor degree and he has not alleged that that he met the alternative legal education requirements of four years of legal study. Further, he failed to provide a sufficient record for this Court to evaluate whether he meets the requirements of Rule 4.26. Petition’s constitutional challenges are without merit. For all the foregoing reasons, Petition’s request for review should be denied.

Dated: March 22, 2023

Respectfully submitted,

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WORD COUNT CERTIFICATE PURSUANT TO
CALIFORNIA RULE OF COURT 8.520(C)(1)

Pursuant to rule 8.520(c)(1) of the California Rules of Court, I hereby certify that this brief contains 2,340 words. I have relied on the word count of the computer program used to prepare the brief.

Dated: March 22, 2023

/s/ Jean Krasilnikoff
JEAN KRASILNIKOFF

PROOF OF SERVICE

I, Joan Randolph, hereby certify that I electronically filed and served the attached **ANSWER TO PETITION FOR REVIEW** with the Clerk of the California Supreme Court and to William B. Look, Jr., Counsel for Petitioner James Camper III, at look_mtr@yahoo.com by transmitting a true copy via this Court's TrueFiling system on March 22, 2023, and on:

Clerk of The State Bar Court
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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed in Oakland, California this 22nd day of March, 2023.

/s/ Joan Randolph
JOAN RANDOLPH

STATE OF CALIFORNIA
Supreme Court of California

PROOF OF SERVICE

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Supreme Court of California

Case Name: **CAMPER ON
ADMISSION**

Case Number: **S278539**

Lower Court Case Number:

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