



## American Society for Pharmacy Law

Communicating current legal information to  
attorneys and pharmacists...

### THE BAR

#### [Washington Supreme Court unanimously overturns Bar Admission Board's recommendation to deny attorney's application](#)

In November 2017, the Washington Supreme Court unanimously granted a recent law school graduate's application for admission to the Washington State Bar. On April 5, it issued a rare opinion explaining its decision and providing guidance on evaluating the moral character of applicants (the previous opinions on the topic were issued in 1984). The case bears on the ability of a person with a previous history of convictions for controlled substance misuse and for theft, holding a suspended nursing credential, to rehabilitate herself, successfully graduate with a Juris Doctor *magna cum laude*, and thus meet the elements needed to provide clear and convincing evidence of her moral character and fitness to practice law to the WSBA Character and Fitness Board. The Court disagreed with the Board's 6 to 3 vote that she had not done so.

The applicant, Tarra Denelle Simmons, specifically waived certain privacy rights and strongly advocated for her hearing before the Supreme Court to be held publicly and the instant opinion to be published. The underlying facts described by the Court of Ms. Simmons' early life are harsh: she was born to parents addicted to drugs, and was forced to "grow up in poverty, surrounded by crime. She was the victim of many acts of sexual violence during her childhood and adolescence, and endured sporadic periods of homelessness beginning when she ran away at age 13." She had juvenile adjudications for theft, possession of stolen property and second degree assault. Having "struggled with addiction for years," as an adult she had a 2001 conviction for assault and 5 convictions in 2011. In 2011 she had obtained a nursing credential, which was placed on probation while she spent 3 years in prison; she also went bankrupt twice and had her home foreclosed on.

Subsequent to 2011, Simmons engaged "in meaningful treatment for her trauma and addiction" for the first time in her life. As the Court noted, "Since then, she has changed her life to a degree that can only be deemed remarkable, both in terms of the efforts she has put forth and the positive results she has achieved." The results include 6 years of sobriety, graduation from the Seattle University School of Law with a J.D. *magna cum laude*, receipt of a Dean's Medal, and receipt of the school's first ever 2-year public interest fellowship from the Skadden Foundation. As the Court found, and her many supporters averred, Ms. Simmons "has been candid about her past, demonstrating sincere remorse and working diligently to make amends to her community as an

outspoken advocate for civil legal aid with a focus on assisting formerly incarcerated individuals facing barriers to reentry.”

The Board found that Ms. Simmons had met 3 of the 5 “essential eligibility requirements,” but doubted that she had yet demonstrated “[t]he ability to exercise good judgment ...” and “[t]he ability to conduct oneself in a manner that engenders respect for the law ...” The Board appeared to have determined that 6 years was an insufficient time to demonstrate these qualities.

The Court, however, refused to establish a bright-line test for time required to demonstrate rehabilitation. Contrary to lawyers who have been disciplined, reasons for a minimum time before reapplying for admission to the Bar do not obtain for new applicants. Rather, the Court emphasized that case-by-case evaluations should be informed by evidence-based practices. The Court found that research demonstrates that 86% of addicts that maintain their sobriety for 5 years will not relapse, and that the relapse rate does not improve further at 10 years. “Simmons has maintained her sobriety and exemplary conduct for over six years at this point. The research presented therefore indicates that she has reached the state where her new positive behaviors are highly likely (in fact, about as likely as they ever will be) to represent lasting change, rather than the tenuous early stages of recovery. *Contra* Board Majority at 20-21 (describing Simmons’ efforts thus far as ‘tender,’ ‘still fragile,’ and ‘still in their infancy.’)”

The Court also noted that an earlier, unpublished, yet publicly celebrated case resulted in admission to the Washington Bar of Mr. Shon Hopwood in 2014, who had previously served 10 years in prison for bank robbery and using a firearm in commission of a crime. Mr. Hopwood was featured on *60 Minutes* in 2017, as reported in the *National Law Journal*. The Court favorably compared Ms. Simmons’ circumstances and history to those of Mr. Hopwood, and noted that Mr. Hopwood was one of Ms. Simmons’ attorneys in this case.

In concluding its opinion, the Court emphasized that it had never considered any holding that the Board had acted arbitrarily: “We do not intend to undermine the authority of the Board or the respect due to the Board and to bar counsel, nor do we mean to suggest that the Board’s recommendation was made in bad faith. We simply disagree with the Board’s recommendation in this particular case.” [In the Matter of the Bar Application of Simmons, No. 201,671-5, S.Ct. Wash., April 5, 2018; <http://www.courts.wa.gov/opinions/pdf/2016715.pdf>