

LITIGATION UPDATE

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The court first reviewed Yisa's educational and work history. From 1984 to 1988, Yisa attended the University of Jos, where he received a Bachelor of Laws (LL.B.) degree. He then attended the Nigerian Law School, which is a one-year program of professional legal study required for admission to practice law in Nigeria. Yisa sat for the Nigerian bar examination and was admitted to the bar. He practiced law for approximately 15 years. In December 2006, Yisa and his family immigrated to the United States.

The court then considered the rules for admission to the Kentucky Bar. Under the general rule, foreign applicants are not eligible for admission because they have not attended

schools approved by the American Bar Association or the Association of American Law Schools. The Kentucky Supreme Court Rules provide an exception for foreign attorneys whose "legal education is the substantial equivalent of the legal education provided by approved law schools located in Kentucky."

The question for the court in this case was whether Yisa's Nigerian legal education was the substantial equivalent of that provided by approved Kentucky law schools. The court began its

BAR EXAMINATION

Educational equivalency

In re Victor Yisa, 297 S.W.3d 573 (Ky. 2009)

Victor Yisa is an attorney licensed to practice law in Nigeria. In 2008, he sought to take the Kentucky Bar Examination. The Board of Bar Examiners of the Kentucky Office of Bar Admissions denied Yisa's application, finding that his Nigerian legal education was not the substantial equivalent of the education at a Kentucky law school. Yisa filed a Motion for Review of the board's decision with the Kentucky Supreme Court.

analysis by noting that Yisa’s law degree was essentially an undergraduate degree, and that Yisa had received five years of schooling (or 159 credit hours) after high school while graduates of Kentucky law schools receive seven years (approximately 210 credit hours). The court found some merit in Yisa’s argument that the relevant rule requires a substantially equivalent *education* and is not concerned with whether the applicant satisfies the admission requirements for Kentucky law schools. However, the court said, “[W]e believe that the requirement of a bachelor’s degree for admission to law school is a substantive part of an attorney’s legal education, and not merely a technical admission requirement.”

The court distinguished Yisa’s case from *Osakwe v. Board of Bar Examiners*, 858 N.E.2d 1077 (Mass. 2006), in which a Nigerian-educated attorney was allowed to sit for the Massachusetts bar exam after the Supreme Judicial Court of Massachusetts found his education equivalent to that of an ABA-approved American law school. The court said that *Osakwe’s* case was different because he had augmented his Nigerian legal education with an LL.M. from the University of Connecticut School of Law, had been admitted to practice in New York and Connecticut, and had practiced law in the United States for several years prior to applying to take the Massachusetts bar exam.

The court also found deficiencies in the record Yisa supplied, noting that “the record before us does

not provide enough information about Mr. Yisa’s LL.B. courses to make an informed determination about the quality and substance of his education.”

The court concluded that Yisa’s legal education was not substantially equivalent to that provided by a Kentucky-approved law school and denied his Motion for Review.

CHARACTER AND FITNESS

Criminal conviction; rehabilitation

In re Cook, 668 S.E.2d 665 (Ga. 2008)

William J. Cook filed an application to the Board to Determine Fitness of Bar Applicants for certification of fitness to practice law in Georgia. Because Cook was convicted of certain crimes in 1986, he was required to prove to the board by clear and convincing evidence that, after the conviction, he had fully and completely rehabilitated himself. Moreover, because the

board’s “primary concern in admitting persons to the practice of law is the protection of the public, any doubts must be resolved against the applicant and in favor of protecting the public.”

The board found that Cook had “made some admirable efforts to rehabilitate his life” since his conviction. However, the record also showed that Cook misrepresented the circumstances of the crime when he was in prison in order to obtain an early release, that he misrepresented the circumstances of the crime when he applied to college in 1993, and that he again misrepresented the circumstances of

the crime when he first applied for certification of fitness to practice law. The board denied Cook's application for certification, and Cook appealed his case to the Supreme Court of Georgia.

The Court concluded that Cook had not carried his burden to prove either that he had fully and completely rehabilitated himself since his conviction or that he had the requisite character and moral fitness to practice law. The Court denied Cook's application for certification of fitness in October 2008 and reconsideration was denied in November. Petition for writ of certiorari to the U.S. Supreme Court was denied in March 2009.

Financial irresponsibility

In re Anonymous, D-51-09 (Supreme Court, Appellate Division, 3rd Judicial Dept., NY, 2009)

This case was reported in an earlier issue of the *Bar Examiner* (Vol. 78, No. 3, August 2009).

The application of an anonymous applicant for admission to the bar was denied by the Supreme Court, Appellate Division, Third Judicial Department in April 2009 on the basis of financial irresponsibility. The applicant then moved for an order vacating the decision or in the alternative for re-argument. In July 2009, the Court granted the motion to the extent that the applicant could submit information by affidavit or other documentary evidence

in response to the report of the members of the Court's Committee on Character and Fitness who had interviewed him. After several extensions, the applicant filed a 93-page affidavit with numerous exhibits, some of which asserted procedural irregularities.

The Court concluded that the procedures followed by the Court satisfied the relevant statutes

and court rules and affirmed its prior determination that the applicant had not established the character and general fitness requisite for an attorney and counselor-at-law. The Court noted that the applicant's application "demonstrated a course of action amounting to neglect of financial responsibilities with respect to the student loans he had accumulated since 1983." THE COURT NOTED THAT THE APPLICANT'S APPLICATION "DEMONSTRATED A COURSE OF ACTION AMOUNTING TO NEGLECT OF FINANCIAL RESPONSIBILITIES WITH RESPECT TO THE STUDENT LOANS HE HAD ACCUMULATED SINCE 1983." THE APPLICANT'S SALLIE MAE FEDERAL AND PRIVATE LOANS CURRENTLY TOTAL APPROXIMATELY \$480,000 INCLUDING INTEREST. THE COURT ALSO STATED THAT THE APPLICANT'S "RECALCITRANCE IN DEALING WITH THE LENDERS HAS BEEN AND CONTINUES TO BE INCOMPATIBLE WITH A LAWYER'S DUTIES AND RESPONSIBILITIES AS A MEMBER OF THE BAR."

The applicant's Sallie Mae federal and private loans currently total approximately \$480,000 including interest. The Court also stated that the applicant's "recalcitrance in dealing with the lenders has been and continues to be incompatible with a lawyer's duties and responsibilities as a member of the bar."

The applicant's motion to vacate and for other relief was denied. 

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