

Court denies Stephen Glass admission to the California bar

By Eugene Volokh Updated: January 27 at 2:13 pm

The former New Republic writer who fabricated many articles in the 1990s “has not sustained his heavy burden of demonstrating rehabilitation and fitness for the practice of law,” says the [California Supreme Court](#):

Stephen Randall Glass made himself infamous as a dishonest journalist by fabricating material for more than 40 articles for The New Republic magazine and other publications. He also carefully fabricated supporting materials to delude The New Republic’s fact checkers. The articles appeared between June 1996 and May 1998, and included falsehoods that reflected negatively on individuals, political groups, and ethnic minorities. During the same period, starting in September 1997, he was also an evening law student at Georgetown University’s law school. Glass made every effort to avoid detection once suspicions were aroused, lobbied strenuously to keep his job at The New Republic, and, in the aftermath of his exposure, did not fully cooperate with the publications to identify his fabrications.

Glass applied to become a member of the New York bar in 2002, but withdrew his application after he was informally notified in 2004 that his moral character application would be rejected. In the New York bar application materials, he exaggerated his cooperation with the journals that had published his work and failed to supply a complete list of the fabricated articles that had injured others.

Glass passed the California bar examination in 2006 and filed an application for determination of moral character in 2007. It was not until the California State Bar moral character proceedings that Glass reviewed all of his articles, as well as the editorials The New Republic and other journals published to identify his fabrications, and ultimately identified fabrications that he previously had denied or failed to disclose. In the California proceedings, Glass was not forthright in acknowledging the defects in his New York bar application.

At the 2010 State Bar Court hearing resulting in the decision under review, Glass presented many character witnesses and introduced evidence regarding his lengthy course of psychotherapy, along with his own testimony and other evidence. Many of his efforts from the time of his exposure in 1998 until the 2010 hearing, however, seem to have been directed primarily at advancing his own well-being rather than returning something to the community. His evidence did not establish that he engaged in truly exemplary conduct over an extended period. We conclude that on this record he has not sustained his heavy burden of demonstrating rehabilitation and fitness for the practice of law.

The rules of legal ethics famously don't always match the rules of everyday ethics. Just to give one example, it's a lawyer's job to try to undermine the credibility of a witness who has implicated his client in a crime, even if the lawyer is certain that the witness is telling the truth. In most contexts outside the legal system, similar behavior would be seen as dishonest (because it is aimed at getting the jury to disbelieve someone who is telling the truth) and cruel (because it may involve the public embarrassment of an innocent witness). But our legal system, rightly or wrongly, tells lawyers that acting this way — within certain limits — is their legal duty.

Yet despite this, the legal system does care a good deal about lawyer ethics, as it defines them. And a propensity to outright fabrication is something state bars and state supreme courts are extremely worried about, even if it happens outside the context of legal practice. (The opinion pointed to the fact that, though Glass was in a different profession at the time, that profession also has firm standards related to honesty, and Glass egregiously violated those standards; it also noted that some of Glass's fabrications occurred while he was going to law school.)

As the opinion relates, many character witnesses for Glass reported that they think he has changed, and the State Bar Court agreed. The California Supreme Court, however, wasn't persuaded, partly because it concluded that:

Glass's lack of integrity and forthrightness continued beyond the time he was engaged in journalism. Once he was exposed, Glass's response was to protect himself, not to freely and fully admit and catalogue all of his fabrications. He never fully cooperated with his employers to clarify the record, failed to carefully review the editorials they published to describe the fabrications to their readership, made misrepresentations to The New Republic regarding some of his work during the period he purported to be cooperating with that magazine, and indeed some of his fabrications did not come to light until the California State Bar proceedings. He refused to speak to his editor at George magazine when the latter called to ask for help in identifying fabrications in the articles Glass wrote for that magazine.

The record also discloses instances of dishonesty and disingenuousness occurring after Glass's exposure, up to and including the State Bar evidentiary hearing in 2010. In the New York bar proceedings that ended in 2004, as even the State Bar Court majority acknowledged, he made misrepresentations concerning his cooperation with The New Republic and other publications and efforts to aid them identify all of his fabrications. He also submitted an incomplete list of articles that injured others. . . .

Our review of the record indicates hypocrisy and evasiveness in Glass's testimony at the California State Bar hearing, as well.

And the court closed with this:

Glass and the witnesses who supported his application stress his talent in the law and his commitment to the profession, and they argue that he has already paid a high enough price for his misdeeds to warrant admission to the bar. They emphasize his personal redemption, but we must recall that what is at stake is not compassion for Glass, who wishes to advance from being a supervised law clerk to enjoying a license to engage in the practice of law on an independent basis. Given our duty to protect the public and maintain the integrity and high standards of the

profession, our focus is on the applicant's moral fitness to practice law. On this record, the applicant failed to carry his heavy burden of establishing his rehabilitation and current fitness.

Disclosure, to the extent it is necessary: I'm socially acquainted with Charles Lane, who was one of Glass's New Republic editors (and who now writes for The Washington Post), with Julie Hilden, Glass's long-time girlfriend, and with a former coworker of Glass's. And I met Glass on one or two occasions.

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