

SUPREME COURT OF WISCONSIN

No. 08-09

In the matter of creation of Supreme Court Rule
40.055 Relating to Admitting Graduates of Law
Schools in Other Nations.

FILED

APR 29, 2009

David R. Schanker
Clerk of Supreme Court
Madison, WI

On April 1, 2008, the Board of Bar Examiners (BBE), by its director, John E. Kosobucki, filed a petition requesting this court create Supreme Court Rule (SCR) 40.055 that would permit graduates of law schools in other nations to take the Wisconsin bar examination. A public hearing was conducted on February 9, 2009. BBE Vice Chair James Huston presented the petition to the court. Several persons appeared in support of the petition, including Mr. Kosobucki and two individuals who were educated at foreign law schools and wish to take the Wisconsin bar examination. At the ensuing open administrative conference, the court discussed the petition.

The court was favorably disposed to the petition. It voted to return the matter to the BBE for further development of certain issues that arose during the court's discussion, including how the BBE will evaluate the academic credentials of applicants who have graduated from foreign law schools, and how it will evaluate these applicants' character and fitness as required by SCR 40.06. The court directed the BBE to develop

administrative procedures to implement this proposed rule, including the form of application that will be utilized by graduates of foreign law schools seeking permission to sit for the Wisconsin bar examination. The court directs the BBE to return this petition to the court in a timely manner.

The court observed that there is presently no viable mechanism by which an individual who received his or her legal training and experience in another country can sit for the Wisconsin bar examination. SCR 40.10 provides that except for the requirements of SCR 40.03 (the diploma privilege) the board may waive any of the requirements of this chapter in exceptional cases and for good cause where to do otherwise would be unjust. However, at the public hearing, Attorney Huston noted that In the Matter of the Bar Admission of Altshuler, 171 Wis. 2d 1, 490 N.W.2d 1 (1992), has been deemed to preclude the board from granting any foreign educated applicant a waiver pursuant to SCR 40.10.

Having signaled its intent to proceed with the development of a rule that will permit graduates of foreign law schools to sit for the Wisconsin bar examination, the majority of the court now urges the BBE to consider requests for waiver under SCR 40.10 submitted by graduates of foreign law schools. In considering such waiver requests, the BBE is directed to utilize the criteria specified in the pending rule petition. The court emphasizes, however, that the BBE need not require an applicant to satisfy each of the criteria outlined in the pending rule petition. Rather, it shall consider whether, under the totality

of the circumstances, the applicant has demonstrated that he or she is qualified by education and experience to sit for the Wisconsin bar examination. The court further requests that the State Bar of Wisconsin assist this court in ensuring that graduates of foreign law schools are aware this rule is pending and that the BBE may consider foreign graduates' requests for waiver under SCR 40.10.

IT IS ORDERED that this petition is returned to the Board of Bar Examiners for further development as set forth herein.

IT IS FURTHER ORDERED that the Board of Bar Examiners may consider applications for waiver pursuant to SCR 40.10 submitted by graduates of foreign law schools as set forth herein.

IT IS FURTHER ORDERED that the court requests the State Bar of Wisconsin to assist this court in ensuring that graduates of foreign law schools are aware this rule is pending and that the Board of Bar Examiners may consider foreign graduates' requests for waiver under SCR 40.10.

IT IS FURTHER ORDERED that notice of this order shall be given by a single publication of a copy of this order in the official state newspaper and in an official publication of the State Bar of Wisconsin.

Bradley, J. dissenting. I find myself in a peculiar situation because although I favor allowing qualified graduates of foreign law schools to take the Wisconsin bar exam, I dissent from that part of the order encouraging the BBE to begin considering requests for waiver pursuant to SCR 40.10. This interim order fails to provide adequate guidance to BBE because

it lacks sufficient criteria for evaluating such waiver requests.

Dated at Madison, Wisconsin, this 29th day of April, 2009.

BY THE COURT:

David R. Schanker
Clerk of Supreme Court

