

Serial: 225711

IN THE SUPREME COURT OF MISSISSIPPI

No. 89-R-99012-SCT

FILED

MAY 30 2019

***IN RE: RULES GOVERNING
ADMISSION TO THE MISSISSIPPI BAR***

OFFICE OF THE CLERK
SUPREME COURT
COURT OF APPEALS

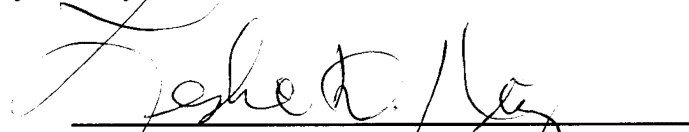
ORDER

Before the Court en banc is the Petition to Amend the Rules Governing Admission to the Mississippi Bar. After due consideration, the Court finds the petition should be granted as set forth in Exhibit A.

IT IS THEREFORE ORDERED that the Petition to Amend the Rules Governing Admission to the Mississippi Bar is hereby granted as set forth in Exhibit A. These amendments apply to applications for and after the February 2020 Mississippi Bar Examination.

IT IS FURTHER ORDERED that the Clerk of this Court shall spread this Order upon the minutes of the Court and shall forward a true certified copy hereof to West Publishing Company for publication in the next edition of the *Mississippi Rules of Court* and in the *Southern Reporter, Third Series, (Mississippi Edition)*.

SO ORDERED, this the 28th day of May, 2019.



LESLIE D. KING, PRESIDING JUSTICE

AGREE: RANDOLPH, C.J., KITCHENS AND KING, P.JJ., MAXWELL, BEAM, CHAMBERLIN AND ISHEE, JJ.

COLEMAN, J., OBJECTS TO THE ORDER IN PART WITH SEPARATE WRITTEN STATEMENT JOINED IN PART BY CHAMBERLIN, J.

GRIFFIS, J., OBJECTS TO THE ORDER IN PART WITH SEPARATE WRITTEN STATEMENT JOINED IN PART BY COLEMAN AND CHAMBERLIN, JJ.

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**COLEMAN, JUSTICE, OBJECTING TO THE ORDER IN PART WITH
SEPARATE WRITTEN STATEMENT:**

¶1. I agree with today's order to the extent that it establishes a three-failure limit on the ability of candidates to take the Bar exam. However, I do not agree with the provision in the new rule allowing such candidates to retake the exam after completing twelve more hours of law school classes.

¶2. In short, the Court does not have enough information to take such action. We have no data before us to support—or contradict—the proposition that candidates who fail the bar exam three times will be rendered competent to practice law after studying—and paying for the study—of twelve additional law school hours. We do not have evidence or data before us on which to judge whether a candidate who requires an additional twelve hours of law school over and beyond the amount that suffices for candidates who pass more quickly can be qualified to practice law. We have no data or evidence on which to judge whether alternative measures, such as requiring candidates who fail the exam three times to submit personalized plans to the Bar Admissions Committee for approval, would be more effective.

¶3. I would impose the three-failure limit, but I would not allow those candidates who fail three times to retake the Mississippi Bar exam.

**CHAMBERLIN, J., JOINS THIS SEPARATE WRITTEN STATEMENT IN
PART.**

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**GRIFFIS, JUSTICE, OBJECTING TO THE ORDER IN PART WITH
SEPARATE WRITTEN STATEMENT:**

¶4. I agree with the Court's decision to grant the Petition to Amend the Rules Governing Admission to the Mississippi Bar. After three unsuccessful attempts, an applicant should not be allowed to retake the examination without additional legal education. However, I disagree with the Court's decision to allow an unlimited number of re-examination attempts. I would impose a maximum number of attempts.

¶5. Justice Coleman is correct. No data or evidence before this Court leads me to believe that the completion of twelve additional credit hours at a law school is necessary to prepare an applicant for re-examination. Other educational opportunities may be available that are more beneficial and less costly. For example, attendance at and completion of a commercial bar review course may be sufficient.

¶6. Therefore, I disagree with the Court's decision to require the completion of twelve additional credit hours at a law school as the only avenue to re-examination. I would give the Board of Bar Admissions the discretion to determine whether the applicant's plan of study would be adequate to allow re-examination. No other state requires an applicant to complete additional law school studies before re-examination. I would adopt a rule similar

to and consistent with the model rule of the Code of Recommended Standards for Bar Examiners.

¶7. I would adopt the following Rule:

RULE IV. EXAMINATION APPLICATIONS.

Section 8. Re-Examination in Excess of Three.

An applicant who has failed to pass three or more bar examinations may be required to complete additional study prescribed by the bar examining authority [the Mississippi Board of Bar Admissions], or to establish that the reasons for previous failures no longer exist, before being permitted to take any subsequent examination. Any applicant who has failed to pass the examination five (5) times is not eligible to apply for further examination or admission.

COLEMAN AND CHAMBERLIN, JJ., JOIN THIS SEPARATE WRITTEN STATEMENT IN PART.

EXHIBIT A

RULE IV. EXAMINATION APPLICATIONS.

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Section 8. Re-Examination in Excess of Three.

An applicant who has unsuccessfully taken the Mississippi Bar Exam three (3) times shall not be eligible for re-examination until he or she has successfully completed a least twelve (12) additional semester hours of law school courses at an ABA accredited law school relevant to subjects covered by or skills necessary to the passage of the Mississippi Bar Examination. A certificate must be issued to the Board of Bar Admissions by the law school stating that the applicant has successfully completed these classes. Satisfaction of this requirement shall permit the applicant to retake the Mississippi Bar Examination on one (1) additional occasion. To be eligible for further re-examination, the applicant must comply with the requirements set forth above between each unsuccessful examination attempt.

Section 9. Examination of Disbarred Attorneys.