

The Sun

Testimony by judges on Bereano's behalf OK; Lobbyist continues effort at hearing to avoid disbarment

by Thomas W. Waldron and Greg Garland SUN STAFF

September 23, 1999 Page(s): 1B

Edition: FINAL

Section: LOCAL

Length: 680 words

Index Terms:

MARYLAND

Record Number: 9909230124

Maryland District Court Chief Judge Martha F. Rasin's warm testimony in support of lobbyist and convicted felon Bruce C. Bereano this week did not violate rules of judicial conduct or ethical standards, experts and state officials said yesterday.

Rasin was among 39 witnesses who vouched for Bereano's character during a hearing Tuesday as the gregarious lawyer-lobbyist fought to avoid being disbarred for a 1994 mail fraud conviction.

Montgomery County Circuit Judge Nelson W. Rupp Jr. and District of Columbia Superior Court Judge Richard Levie also testified for Bereano, with each saying that Bereano's felony conviction had not diminished their high opinions of him.

Experts on judicial ethics said in interviews yesterday that they saw no problem with Rasin and the other judges testifying on Bereano's behalf.

"It's perfectly proper, certainly under the Maryland Code of Judicial Conduct and would be proper under the American Bar Association's Code of Judicial Conduct," said M. Peter Moser, a lawyer with the Baltimore firm of Piper & Marbury and past chairman of the ABA's ethics committee.

The Maryland code says a judge "should not testify voluntarily as a character witness." But the code permits such testimony as long as the judge receives a subpoena to appear. Bereano issued subpoenas to each of the judges to compel their appearance in court.

A comment included in the text of the code outlines the potential problems created by judges testifying as character witnesses: "The testimony of a judge as a character witness injects the prestige of judicial office in the proceeding and may be misunderstood to be an official testimonial."

Rasin said her testimony was relevant because she had worked as a legal secretary for Bereano and later as his law partner and could discuss his abilities as an attorney.

"The issue was whether he should be permitted to keep his law license," Rasin said. "It wasn't just a matter of, 'Was he a good guy?'"

Bereano pressed his effort to avoid disbarment yesterday as the hearing before Anne Arundel County Circuit Judge Eugene M. Lerner concluded. Lerner is to send a memorandum on the case to the Maryland Court of Appeals, which has the final say in disciplining lawyers.

Bereano emphatically asked Lerner to recommend a punishment less severe than disbarment.

"My whole purpose is to fight with all my fiber to avoid being disbarred," Bereano said.

Kendall R. Calhoun, the lawyer who is pressing the disbarment case against Bereano on behalf of the Attorney Grievance Commission, said judges have testified at such hearings in the past.

The state's highest ranking judge, Maryland Court of Appeals Chief Judge Robert M. Bell, said he was not concerned about the judges testifying for Bereano.

"Judges have the right, under appropriate circumstances, to testify," Bell said.

While Rasin once worked for Bereano, Levie went to law school and practiced law with him. Rupp said he has known Bereano for years through various cases.

"These people were very longtime and dear friends of mine before they became judges," Bereano said.

Rasin and Levie also testified as character witnesses at Bereano's sentencing in 1995.

Maryland Senate President Thomas V. Mike Miller said he had no concerns about the testimony of Rasin and the other judges. In fact, he said, it spoke well of Rasin, whom he has known for more than 20 years.

"Loyalty is a trait to be admired," said Miller, a Prince George's Democrat.

Bereano, once the highest earning lobbyist in Annapolis, was convicted of seven counts of mail fraud for falsely billing clients and using the proceeds to make campaign contributions. He served five months in a halfway house in East Baltimore and is now serving five months of home detention.