

The Supreme Court of South Carolina

In the Matter of Anonymous Member of the South
Carolina Bar, Petitioner.

Appellate Case No. 2023-001442

ORDER

Petitioner was admitted to practice in South Carolina in November 2018 and worked as an Assistant Solicitor in two different judicial circuits from December 2018 until July 2022, when he accepted an associate position with a law firm. Upon his most recent change in employment, Petitioner discovered that this Court's Attorney Information System (AIS) reflects he is not certified pursuant to Rule 403, SCACR. Petitioner has filed a petition requesting retroactive certification, along with an affidavit demonstrating that he has met the requirements for certification.

Petitioner explains that in late 2018 or early 2019, he completed the Rule 403 certification form and mailed it to the Office of Bar Admissions. Applicant states "[f]rom that time, I believed that my compliance had been recorded by the Office of Bar Admissions." Bar Admissions has no record of ever receiving Petitioner's form. However, it is undisputed that Petitioner never received notice from this Court that his experiences were approved or disapproved as required per Rule 403(j), SCACR, and his AIS account has never reflected that he has satisfied his Rule 403 requirements.

In the affidavit included with his motion, Applicant avers he has participated in various trial experiences sufficient to satisfy the requirements of Rule 403(b)(1), (3)-(4), SCACR. Additionally, the South Carolina Bar confirmed to the Office of Bar Admissions that Applicant observed an approved video trial on October 8, 2018, in satisfaction of Rule 403(b)(2). Accordingly, we find Applicant has submitted adequate evidence demonstrating he has completed the required trial experiences.

All members of the Bar have a "continuing duty to verify and update their information contained in the AIS, and must ensure that the AIS information is current and accurate at all times." Rule 410(g), SCACR. This Court has previously suspended lawyers who appeared in court without proper certification under Rule 403. *See In re Curry*, 373 S.C. 620, 647 S.E.2d 179 (2007) (imposing a six-month definite suspension for misconduct that included repeatedly and *knowingly* appearing in court without first receiving Rule 403 certification); *see also* Rule 5.5(a), RPC, Rule 407, SCACR (forbidding a lawyer from practicing law in a jurisdiction "in violation of the regulation of the legal profession in that jurisdiction").

Despite notice available in the Court's AIS, we conclude Petitioner's failure to comply with the requirements of Rule 403 was not knowing. Accordingly, we grant Petitioner's motion and find Petitioner is authorized, as of November 27, 2018, to appear alone at any hearing, trial, or deposition in a case pending before the courts of the State of South Carolina. Nevertheless, we take the step of publishing this Order anonymously to reiterate to all members of the Bar the ongoing duty to ensure *all information* in the AIS is current and accurate at all times, including whether Rule 403 certification has been obtained. We also emphasize that merely submitting a certificate to the Office of Bar Admissions is not adequate to satisfy the requirements of Rule 403. Rather, an attorney is not deemed certified pursuant to Rule 403 until the Court notifies the attorney the trial experiences have been approved and the attorney's status is updated in the AIS. With the benefit of this published order, future failures to comply with Rule 403 certification procedures may not be viewed with the same degree of leniency.

s/ Donald W. Beatty C.J.

s/ John W. Kittredge J.

s/ John Cannon Few J.

s/ George C. James, Jr. J.

s/ D. Garrison Hill J.

Columbia, South Carolina
November 1, 2023