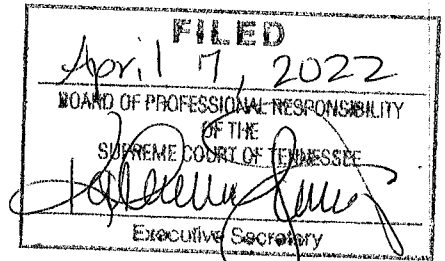


**IN DISCIPLINARY DISTRICT I
OF THE
BOARD OF PROFESSIONAL RESPONSIBILITY
OF THE
SUPREME COURT OF TENNESSEE**



IN RE: JOHN STEPHEN ANDERSON
Petitioner, an Attorney Licensed
to Practice Law in Tennessee
(Hawkins County)

DOCKET NO. 2021-3207-1-AW-30.4(d)

JUDGMENT OF THE REINSTATEMENT HEARING PANEL

This Petition for Reinstatement came for hearing before this Hearing Panel of the Board of Professional Responsibility of the Supreme Court of Tennessee on March 28, 2022 in the Sullivan County Circuit Court, Grand Jury Room, 140 Blountville Bypass, Blountville, Tennessee. Present before the panel were Petitioner Mr. John Stephen Anderson (pro se) and Mr. Russel Willis representing the Tennessee Board of Professional Responsibility.

This cause was heard pursuant to Rule 9 of the Rules of the Tennessee Supreme Court. The Hearing Panel, consisting of Ms. Laura S. Woods (Chair), Ms. McKenna L. Cox, and Mr. Andrew T. Wampler, after considering the entire record in this matter, the testimony of the witness, and the arguments presented by Petitioner and Mr. Willis to this Panel, and after thorough deliberations, makes the following Findings of Facts, Conclusions of Law, and renders Judgment in this cause.

I. BACKGROUND

Petitioner John Stephen Anderson was licensed to practice law in the State of Tennessee in 1987. Petitioner was suspended from the practice of law in March 2015 with an Agreed Order of Suspension and was suspended from the practice of law for a period of six (6) years by the Supreme Court by an Order of Enforcement entered on December 22, 2015.

II. FINDINGS OF FACT

1. The Order of Enforcement required Petitioner to pay restitution in the amount of \$17,968.00, which he has done.
2. The Order of Enforcement required Petitioner to pay \$6,042.19 to the Board for payment of costs awarded, which he has done.
3. The Order of Enforcement required Petitioner to pay court costs associated with his prior discipline, which he has done.
4. Petitioner is current on his professional privilege taxes and on his registration fees due and owing to the Board.
5. The Order of Enforcement required Petitioner to post a \$2,000 cost bond with the Board, which he has done.
6. The Order of Enforcement required Petitioner to become current with his Continuing Legal Education requirements which he has done by completing 75 hours of CLE in the last two (2) years.
7. Since his suspension, Petitioner has become certified as a substitute teacher for grades kindergarten through 12 with the Hawkins County Board of Education.
8. Petitioner sought and achieved employment during his suspension with an employer

that required an extensive background check.

9. Petitioner has consistently reviewed legislative changes and appellate court opinions through various sources during the term of his suspension.
10. Petitioner sought and received a Memorandum signed by four Judges of the Third Judicial District stating that the judges did not oppose Petitioner's reinstatement to the practice of law.
11. Petitioner intends to limit the geographic and subject-matters of his practice upon reinstatement to the third judicial district and criminal appointed cases the best of his ability to do so.
12. Petitioner has agreed to appointment of a Practice Monitor.

III. CONCLUSIONS OF LAW

STANDARDS FOR REINSTATEMENT

Tenn. Sup. Ct. R. 9, § 30.4(d)(1) provides, in part,

The hearing committee shall schedule a hearing at which the petitioning attorney shall have the burden of demonstrating by clear and convincing evidence that the petitioning attorney has the moral qualifications, competency and learning in law required for admission to practice law in this state, that the resumption of the practice of law within the state will not be detrimental to the integrity and standing of the bar or the administration of justice, or subversive to the public interest.

The clear and convincing standard is higher than a preponderance of the evidence and lower than beyond a reasonable doubt. Clear and convincing evidence eliminates any serious or substantial doubt concerning the correctness of the conclusions to be drawn from the evidence. It should produce in the fact-finder's mind a firm belief or conviction with

regard to the truth of the allegations sought to be established. *Hughes v. Board of Professional Responsibility*, 259 S.W.3d 631, 642 (Tenn. 2008) citing *O'Daniel v. Messier*, 905 S.W.2d 182 (Tenn. Ct. App. 1995).

Tenn. Sup. Ct. R. 9, § 1 states in part, "The license to practice law in this State is a continuing proclamation by the Court that the holder is fit to be entrusted with professional and judicial matters, and to aid in the administration of justice as an attorney and as an officer of the Court." The license to practice law in this state is not a right but a privilege. See Tenn. Sup. Ct. R. 9, § 1.

1. Moral Qualifications

The moral qualifications required for admission to practice law in this State, as set forth in Article VI, Section 6.01(a) of Rule 7 of the Rules of the Supreme Court of Tennessee, states as follow:

An applicant shall not be admitted if in the judgment of the Board there is reasonable doubt as to that applicant's honesty, respect for the rights of others, and adherence to and obedience to the Constitution and laws of the State and Nation as to justify the conclusion that such applicant is not likely to adhere to the duties and standards of conduct imposed on attorneys in this State. Any conduct which would constitute grounds for discipline if engaged in by an attorney in this State shall be considered by the Board in making its evaluation of the character of an applicant.

The Tennessee Supreme Court has established guiding factors to determine whether a petitioner possesses the necessary moral qualifications to resume the practice of law in the state. *Milligan v. Board of Professional Responsibility*, 301 S.W.3d 619, 631 (Tenn. 2009) (Courts look at various indicators of moral change including honesty, remorse, and activity during suspension). Remorse and awareness of prior wrongdoing, among other factors, are regularly

cited as marks of good moral character, and various jurisdictions have recognized these as appropriate factors to consider in gauging moral character. *Milligan v. Board of Professional Responsibility*, 301 S.W.3d 619, 631 (Tenn. 2009). Honesty is considered the centerpiece of good moral character, *Id.* at 633, and repayment of restitution and legal fees are also indicative of good moral character. *Hughes v. Board of Professional Responsibility*, 259 S.W.3d 631, 644 (Tenn. 2008). The moral character requirement requires a showing that the lawyer has undergone a 'moral change' so that the weaknesses that produced the prior conduct have been corrected. *Milligan v. Board of Professional Responsibility*, 301 S.W.3d 619, 631 (Tenn. 2009) (admitting to the cause of one's failure and correcting that weakness is required). It is incumbent upon the attorney seeking reinstatement to the practice of law to present specific facts and circumstances arising since the attorney's convictions that demonstrate rehabilitation or remorse. *Murphy v. Board of Professional Responsibility*, 924 S.W.2d at 647.

Petitioner testified on his own behalf about his efforts to remain active in his community, including being involved in his church and in civic organizations, and that he had successfully sought employment opportunities with employers that had moral standards/background requirements. He also made efforts to meet with Judges within his home judicial district to share his journey and assure them of his commitment to handling matters differently if reinstated. This resulted in a memorandum from the judges expressing no contest to Petitioner's reinstatement to the practice. Petitioner also demonstrated that he has satisfied the restitution requirements and submitted pleadings as well as testified regarding his remorse concerning his actions and inactions that led to his license being suspended. Of specific impact to the Panel was Petitioner's willingness to remain in the community where his actions and inactions had negative consequences to his reputation, to his family, and to his clients and his willingness to repair those

relationships, pay restitution, and seek community support for his return to the practice of law in that same community.

2. Competency and Learning in the Law

Petitioner bears the burden of presenting clear and convincing evidence demonstrating he possesses the current competency and learning in the law required for admission to practice law in Tennessee. It is insufficient to simply offer conclusory testimony that the attorney has done a very good job of staying current in the law or that the attorney was a competent attorney before the disciplinary sanction was imposed. *Culp v. Board of Professional Responsibility*, 407 S.W.3d 201, 210 (Tenn. 2013). Further, clear and convincing evidence of learning in the law and competency requires more than simply completing the requisite hours of CLE required. *Culp v. Board of Professional Responsibility*, 407 S.W.3d 201,210 (Tenn. 2013).

Petitioner testified that he is current on his CLE requirements, including having completed 75 hours in the last two years. The Board of Professional Responsibility affirmed that Petition had completed these requirements. Further, Petitioner testified that he has kept apprized of developments in the law through reading Tennessee Bar Association publications of appellate opinions, following legislative developments, and ensuring that his CLE courses have included substantive topics related to his practice areas.

3. Integrity and Standing of the Bar/ Public Interest

Petitioner bears the burden of presenting clear and convincing evidence demonstrating his reinstatement and resumption of the practice of law in Tennessee would not be detrimental to the integrity and standing of the bar or the administration of justice or subversive to the public

interest. See Tenn. Sup. Ct. R. 9, § 30.4(d)(1). Unlike the many factors set out regarding moral qualification, this assessment is more subjective in nature and, on occasion, may be less dependent upon the proof in the record than the sense of professional responsibility and respect the Court, as the final regulatory authority, holds for the society the legal system serves. *Hughes v. Board of Professional Responsibility*, 259 S.W.3d 631, 646 (Tenn. 2008).

The license to practice law is a privilege, not a right. *Murphy v. Board of Professional Responsibility*, 924 S.W.2d 643, 647 (Tenn. 1996). The practice of law is a distinct privilege—the more serious the abuse of that privilege, the more onerous the burden of atonement. *Hughes v. Board of Professional Responsibility*, 259 S.W.3d 631, 651 (Tenn. 2008). In the hearing, Petitioner testified that he has been fully cooperative with the Board before and during his time of suspension, and The Board of Professional Responsibility affirmed that Petitioner had so cooperated. Petitioner testified that he did not hide nor run from scrutiny received both in public and private, and that he has maintained a profile in a small community when it might have been easier to move and seek to reinstate his practice elsewhere. Petitioner testified that, after his suspension, he had arrived at a personal “epiphany” regarding past family conflict that had, in large part, led to mental health issues that resulted in his suspension and that he had cultivated a support system in his wife, other local attorneys, and at least one judge in his district. Petitioner testified that he was willing to work with a Practice Monitor, to engage with TLAP, and that he had created coping mechanisms and a practice plan to prevent a repeat of the issues that led to his suspension.

Therefore, based upon the evidence provided during the hearing and the pleadings submitted herein, it is the judgement of the Hearing Panel that Petitioner has carried his burden by clear and convincing evidence to be reinstated to the practice of Law, subject to

the conditions imposed by the Hearing Panel.

IV. Conditions Upon Reinstatement

The Hearing Panel has broad authority to impose reasonable conditions upon Petitioner's reinstatement pursuant to Tenn. Sup. Ct. R. 9, § 30.4(d)(7). In this matter, the Hearing Panel imposes the following conditions on Petitioner:

1. Practice Monitor

A Practice Monitor approved by the Board of Professional Responsibility shall be appointed for a minimum of two (2) years, with the Practice Monitor having discretion to extend his/her supervision for no more than one additional year if he/she deems appropriate. The following shall be Petitioner's required minimum interactions with the Practice Monitor during the first year of monitoring:

- Petitioner shall schedule and attend weekly meetings with the Practice Monitor to review Petitioner's case load, schedule, and calendar.
- Petitioner shall provide monthly accounting statements to the Practice Monitor, including IOLTA reporting.
- Petitioner shall timely schedule with the Practice Monitor a review of any cases in which Petitioner is making a court appearance prior to the court appearance.

The following shall be Petitioner's required minimum interactions with the Practice Monitor during the second year of monitoring:

- Petitioner shall schedule and attend monthly meetings with the

Practice Monitor to review Petitioner's case load, schedule, and calendar.

- Petitioner shall provide quarterly accounting statements to the Practice Monitor, including IOLTA reporting.
- At the Practice Monitor's discretion, Petitioner shall schedule a review of any cases in which Petitioner is making a court appearance prior to the court appearance.

Petitioner shall pay a reasonable fee, as determined by the Practice Monitor, to the Practice Monitor during the term of the monitoring. The Hearing Panel recommends David Miller of Hawkins, Bingham and Miller be appointed as Practice Monitor.

2. Tennessee Lawyer's Assistance Program Enrollment and Completion

Petitioner shall enroll in the Tennessee Lawyers Assistance Program, undergo an evaluation, and comply with any and all requirements of his TLAP contract. Successful completion/satisfaction of those requirements is required.

3. Additional Continuing Legal Education

Petitioner shall complete an additional three (3) hours of CLE on ethics and professionalism live (online, live broadcast shall be sufficient) through a course identified by his Practice Monitor. This additional CLE requirement shall be for 2022.

JUDGMENT

Based on these findings of fact and conclusions of law, Petitioner's license to practice law is hereby reinstated subject to the conditions contained herein. Costs of this matter shall be paid by Petitioner.

IT IS SO ORDERED.

Laura S Woods
Laura S. Woods, Chair

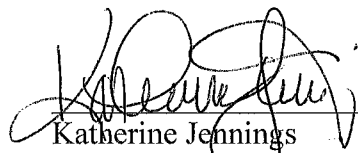
McKenna L. Cox, by (LSW) with express
McKenna L. Cox permission

Andrew T. Wampler by (LSW) with express
Andrew T. Wampler permission

THIS JUDGMENT MAY BE APPEALED PURSUANT TO §1.3 OF RULE 9 OF THE TENNESSEE SUPREME COURT RULES BY FILING A PETITION FOR WRIT OF CERTIORARI, WHICH PETITION SHALL BE MADE UNDER OATH OR AFFIRMATION AND SHALL STATE THAT IT IS THE FIRST APPLICATION FOR THE WRIT.

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing has been sent to Respondent, John Stephen Anderson, 129 Corbin Heights Drive, Rogersville, TN, 37857, by U.S. First Class Mail, and hand-delivered to A. Russell Willis, Disciplinary Counsel, on this the 7th day of April 2022.


Katherine Jennings
Executive Secretary

NOTICE

This judgment may be appealed by filing a Petition for Review in the appropriate Circuit or Chancery Court in accordance with Tenn. Sup. Ct. R. 9, § 33.