

IN THE SUPREME COURT OF TENNESSEE  
AT NASHVILLE

**JAVIER MICHAEL BAILEY, BPR #14186**  
An Attorney Licensed in Tennessee  
(Shelby County)

**FILED**

MAY 27 2004

Clerk of the Courts

BPR DOCKET NO. 2002-1291-9-LC  
NO. M2001-00933-SC-BPR-BP

**AGREED ORDER ON CONDITIONAL PLEA OF GUILTY**

This matter is before the Court upon the Petition for Discipline, Supplemental Petition for Discipline, and Second Supplemental Petition for Discipline of the Board of Professional Responsibility of the Supreme Court of Tennessee, by and through Disciplinary Counsel, for the suspension of Javier Michael Bailey, Respondent, pursuant to Section 4.2 of Tennessee Supreme Court Rule 9. The Petitions are based on five (5) separate complaints lodged against Bailey with the Board of Professional Responsibility in complaint numbers 24162-9-LC; 24723-9-LC; 25741-9-LC; 25805-9-LC; and 26525-9-LC. The Petitions have been authorized by the Chairman of the Board of Professional Responsibility.

The Petitions allege, *inter alia*, that Respondent:

- (a) practiced law while suspended;
- (b) communicated with a person on the subject of the representation with a party the Respondent knew to be represented without the knowledge or consent of the person's lawyer;
- (c) failed to maintain client confidentiality; and
- (d) accepted money from a client to be put in escrow when as a condition of his reinstatement he was prohibited from having an escrow account.

Respondent admits his guilt of violating DR 1-102(A)(1)(4)(5)(6)(7); DR 4-101(A)(B); DR 7-102(A)(3)(8); DR 7-104(A)(1)(2); DR 7-106(A); and DR 9-102(A)(B) of the Code of Professional Responsibility.

Pursuant to Tennessee Supreme Court Rule 9, Section 16.1, Respondent has agreed to enter into a Conditional Guilty Plea to the Petitions in exchange for a five (5) year suspension with four (4) years and eleven (11) months to be served on probation. During the period of suspension and/or probation, the Respondent shall continue to be monitored by the Tennessee Lawyer's Assistance Program (TLAP) upon the terms and conditions recommended by TLAP, as set forth in the TLAP Monitoring/Advocacy Agreement attached hereto as Exhibit A and incorporated by reference. The Respondent's failure to comply with any of the conditions of probation during the entire probationary period shall constitute grounds for summary suspension and revocation of probation as provided in Tennessee Supreme Court Rule 9, Section 4.3. At the expiration of five years of compliance with the terms and conditions of probation, the Respondent shall be reinstated by order without petition.

The Court finds that the Petitions establish sufficient grounds for the suspension of Respondent's law license pursuant to Section 4.2 of Supreme Court Rule 9, and that the parties have agreed to a stated sanction.

It is, therefore, **ORDERED, ADJUDGED and DECREED** by the Court:

Respondent shall be suspended for five (5) years with four (4) years and eleven (11) months to be served on probation. During the period of suspension and/or probation, the Respondent shall continue to be monitored by the Tennessee Lawyer's Assistance Program (TLAP) upon the terms and conditions recommended by TLAP, set forth in the TLAP Monitoring/Advocacy Agreement attached hereto as Exhibit A and incorporated by reference.

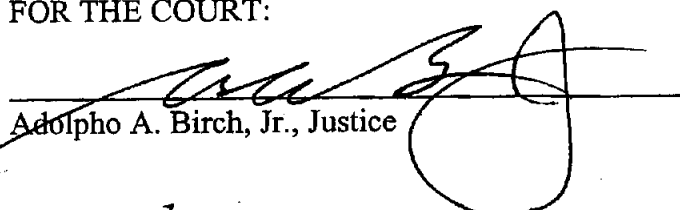
The Respondent's failure to comply with any of the conditions of probation during the entire probationary period shall constitute grounds for summary suspension and revocation of probation as provided in Tennessee Supreme Court Rule 9, Section 4.3. At the expiration of five years of compliance with the terms and conditions of probation, the Respondent shall be reinstated by order without petition.

Pursuant to Tennessee Supreme Court Rule 9, Section 24.3, Javier Michael Bailey shall reimburse and pay to the Board of Professional Responsibility the expenses and costs of this matter in the amount of \$1,860.18. In addition, he shall pay to the Clerk of this Court the costs incurred herein, for all of which execution may issue if necessary.

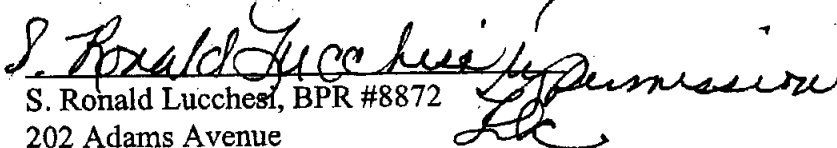
The Board of Professional Responsibility shall cause notice of this suspension to be published as required by Supreme Court Rule 9.

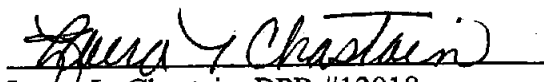
*Enter none pro fine*  
This Order is effective as of January 2, 2004.

*This 27th day of May 2004*  
FOR THE COURT:

  
Adolpho A. Birch, Jr., Justice

APPROVED FOR ENTRY:

  
S. Ronald Lucchesi, BPR #8872  
202 Adams Avenue  
Memphis, TN 38103-1992  
901-521-1028

  
Laura L. Chastain, BPR #12018  
Deputy Chief Disciplinary Counsel  
1101 Kermit Drive, Suite 730  
Nashville, TN 37217  
615-361-7500



TENNESSEE LAWYERS ASSISTANCE PROGRAM

January 9, 2004

Robert E. Albury, Jr., J.D., LADAC, *Executive Director*  
Laura M. Gatrell, M.A., CEAP, *Assistant Director*

Laura Chastain  
Deputy Chief Disciplinary Counsel  
Board of Professional Responsibility  
1101 Kermit Drive, Suite 730  
Nashville, TN 37217

**CONFIDENTIAL**

RE: Javier Bailey, Esq., TLAP Client ID: 6403  
**CONFIDENTIAL**

Dear Ms. Chastain:

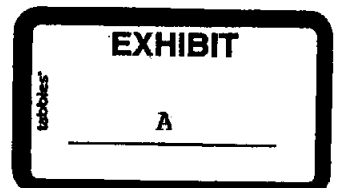
Pursuant to Mr. Bailey's Agreed Order, it is the recommendation of TLAP that the terms and conditions of Mr. Bailey's existing TLAP Monitoring/Advocacy Agreement signed January 23, 2003, a copy of which is attached, be extended for a total term of five years from the date of execution. These terms are contingent upon Mr. Bailey completing the approved Experimental Therapy treatment program at Onsite Workshops which was agreed upon post-evaluation at the Vanderbilt Professional Assessment Program. Upon discharge from Onsite, Mr. Bailey resumes all of the TLAP monitoring conditions as set forth in the attached contract, which includes but is not limited to maintaining contact with his Peer Monitor, attending weekly Memphis Lawyer in Recovery support groups, daily call-in for alcohol and drug testing, and medication management through Dr. Reed Finlayson of Vanderbilt University.

Sincerely,

Laura M. Gatrell, MA, CEAP  
Assistant Director  
Tennessee Lawyers Assistance Program

Enclosure

Cc: Jay Bailey, Esq.  
Andy Branham, Esq.



221 4th Ave. N., Suite 450 • Nashville, TN 37219-2198

Toll Free: (877) 424-8527 • Direct: (615) 591-5801 • Cell: (615) 210-1799 • Fax: (615) 591-3085 • Web Site: [www.tlap.org](http://www.tlap.org) • E-mail: [tlap@aol.com](mailto:tlap@aol.com)

**TENNESSEE LAWYER'S ASSISTANCE PROGRAM  
MONITORING/ADVOCACY AGREEMENT**

*This agreement, entered into on 1/23/2003, by and between Jayler Bailey, hereinafter referred to as the "Client" and the Tennessee Lawyer's Assistance Program, hereinafter referred to as "TLAP".*

It is understood and agreed by both parties that the Client is an impaired member of the legal profession pursuant to Rule 33 of the Rules of the Supreme Court of Tennessee. That said Client suffers from substance abuse, chemical dependency and/or a mental disorder, which has jeopardized the Client's license to practice law and/or Client's ability to practice or serve. That it is the purpose of TLAP to assist the Client in retaining or regaining Client's right to practice law, while ensuring to the extent possible, that the Client is continuing to follow through with a recommended course of treatment and a program of recovery, so that the Client does not pose a threat to him or herself or the public. That TLAP provides monitoring services to Designated Organizations, in this case Board of Professional Responsibility, by providing the Client support, structure and accountability in furtherance of Client's recovery efforts and will advocate on behalf of the Client to the Designated Organization so long as the Client maintains compliance with the terms and conditions of this Agreement. While it is understood that this is a voluntary agreement, and that TLAP cannot ensure the Client's recovery but only assist Client in Client's efforts to recover, TLAP stands ready to help with any special problems that may develop during the term of this Agreement. It is, however, the responsibility of the Client to make TLAP aware of any such problem as soon as it may arise.

In consideration of the monitoring and advocacy services to be provided by TLAP, the Client agrees as follows:

- 1) To participate in a complete clinical assessment, within **(completed)** days, to be conducted by a psychiatrist or clinical psychologist (or other mental health professional) as approved by TLAP's Director. The results of the assessment and recommendations shall be delivered to Robert Albury, Jr., J.D., Executive Director, Tennessee Lawyer's Assistance Program, 221 4<sup>th</sup> Ave. North, Suite 450, Nashville, TN 37219.
- 2) To comply with and successfully complete any recommended course of treatment and/or therapy, including all continuing care and aftercare recommendations.
- 3) To participate in alcohol/drug screenings at a designated lab and arrive at the designated screening site within six (6) hours of notification. Client shall be responsible for receiving notification. The cost of random alcohol/drug screenings shall be the responsibility of the Client. The results of all alcohol/drug screenings shall be provided by designated lab directly to TLAP.
- 4) To remain abstinent from alcohol as well as all other mind or mood altering substances, except as prescribed in writing by Client's primary physician/psychiatrist. Client's primary physician/psychiatrist will be provided complete disclosure by the Client of Client's substance abuse, chemical dependency and/or mental disorder. TLAP must have the name of Client's current primary care physician/psychiatrist on record at all times.
- 5) To notify TLAP, in writing, of any medications to be taken.
- 6) To actively participate in the following self-help programs and/or therapeutic groups throughout the duration of this Agreement: Memphis "LIR" support group, facilitated by Steve Watts.
- 7) To submit monthly calendar to TLAP documenting attendance at treatment, therapy and/or the designated 12-step program(s). (Not less than three meeting per week, including Christian Support Group and LIR group)
- 8) To be assigned a Monitor by TLAP. The Client shall be responsible for contacting Monitor and establishing a relationship consisting of not less than weekly telephone contact and a monthly face to face report as to the Client's progress in Client's personal

program of recovery and compliance with this Agreement. The Client will continue to report to Monitor on a regular basis throughout the duration of this Agreement.

- 9) To be responsible for all documentation and reports being delivered to TLAP and for providing written consent for the release of all information and medical records required to comply with this Agreement.
- 10) Hereby consent to the release of information and documentation by TLAP to Designated Organization in order that TLAP may effectively provide monitoring services. TLAP having relied upon Client's consent in entering into this Agreement.
- 11) To notify TLAP of any change of address, phone number or employment and appear when requested.
- 12) To participate in any designated TLAP Lawyer in Recovery ("LIR") Group in Client's region, a current list of which will be provided to client.
- 13) If at any time during this Agreement the Client fails to comply with any of the terms and conditions, Client will be in direct breach of this Agreement and it will be solely within the discretion of TLAP's Director whether Client's non-compliance shall result in termination of this Agreement and/or notification to the Designated Organization.
- 14) The initial term of this Agreement shall be for three (3) years.

Agreed and entered into:

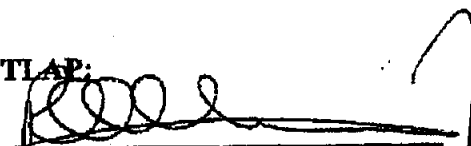
CLIENT:

  
Javier Bailey

Date: 1-23-03

Address: 2935 Invergarry  
Memphis, TN 38128  
Phone: (home) 901-357-5683

TLAP:

  
Robert E. Albury, Jr., J.D., CADC  
Executive Director

Date: Jan 23, 2003

Note: Monitor to be identified by separate cover.

Michael W. Catalano, Clerk, hereby certify that this is a true and exact copy of the original

  
filed in the cause  
This 27 day of May, 2004  
CLERK OF COURT

By: 