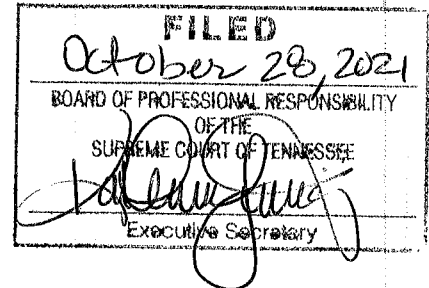


BOARD OF PROFESSIONAL RESPONSIBILITY  
OF THE  
SUPREME COURT OF TENNESSEE  
DISCIPLINARY DISTRICT I



IN RE: WHITNEY SUZANNE BAILEY, Respondent

DOCKET NO. 2021-3198-1-AW-30.4d

An Attorney Licensed to Practice Law

In the State of Tennessee

(Sullivan County)

---

DECISION, REPORT, AND FINDINGS OF DISCIPLINARY HEARING PANEL

---

This matter came before the disciplinary hearing panel for the First District of Tennessee on October 26, 2021, at 1:00 PM upon the filing of a Petition for Reinstatement of her license to practice law filed by Respondent Whitney Suzanne Bailey (hereinafter "Bailey") on September 3, 2021, and the response thereto filed by the Board of Professional Responsibility (hereinafter "BPR") on September 7, 2021. Present before the hearing panel were Bailey; Mr. Russ Willis, counsel for BPR; Mr. Buddy Stockwell with the Tennessee Lawyers Assistance Program (hereinafter "TLAP"); and the members of the disciplinary hearing panel, namely Ms. McKenna Cox (chair), Ms. Polly Peterson, and Mr. Kidwell King. Various witnesses also testified on behalf of Bailey via Zoom technology due to the COVID-19 pandemic. No witnesses testified against Bailey.

Prior to hearing testimony, the parties (BPR and Bailey) agreed and stipulated that Bailey's psychological test results and mental health records be entered into evidence under seal, to remain with the BPR under a protective order. The parties also stipulated and agreed that Bailey had satisfied all conditions set forth in the order imposing discipline upon her in that she had completed all of her CLE requirements through the year 2021, had paid all outstanding registration fees and all outstanding professional privilege tax, had remitted all court costs to the BPR due in this matter, met the qualifications of Tenn. Supreme Court Rule 9, Section 28; had submitted the affidavit to the Board required by Tenn. Supreme Court Rule 9 section 28.9, had obtained an evaluation from TLAP and followed all recommendations thereof, had authorized TLAP to communication with BPR, had not incurred any new disciplinary complaints during her suspension and probation up to and including the date of the hearing, and had attended the BPR's three-hour trust accounting workshop. The parties further agreed that and stipulated that the only issues before the disciplinary hearing panel were whether Bailey met the remainder of the qualifications of Tenn. Supreme Court Rule 9, section 30.4(d)(1). More specifically, whether Bailey could prove, by clear and convincing evidence, that she possessed the moral qualifications, competency and learning in law required for admission to practice law in Tennessee; and that the resumption of the practice of law within Tennessee would not be

detrimental to the integrity and standing of the bar, to the administration of justice, or subversive to the public interest.

Based on the pleadings, the testimony of Bailey and of Mr. Stockwell, Mr. Daniel Boyd, Mr. Brian Head, Ms. Amy Kathleen Skelton, and Ms. Christy Michelle Bennett, and on the record as a whole, the disciplinary hearing panel finds that Bailey did, by clear and convincing evidence, establish that she possessed the moral qualifications, competency and learning in the law required for admission to practice law in Tennessee; and that the resumption of the practice of law within Tennessee would not be detrimental to the integrity and standing of the bar, to the administration of justice, or subversive to the public interest. The disciplinary hearing panel therefore respectfully recommends to the Tennessee Supreme Court that Bailey be reinstated to practice law subject to the limitations set forth herein.

In support of its decision and recommendation, the disciplinary hearing panel makes the following decision and report containing its findings of fact and conclusions of law pursuant to Tenn. Supreme Court R. 9, Section 30.4(d)(4):

1) **STANDARD OF PROOF:** Tennessee Supreme Court Rule 9 Section 30.4 sets forth the requirements for reinstating the license of a lawyer in Bailey's position.

The burden for establishing that she has met the qualifications set forth by the Tennessee Supreme Court for reinstatement lies with the Petitioner. She must prove, by clear and convincing evidence, that she has complied with the requirements set forth in not only her order of suspension, but also Tenn. Supreme Court Rule 9 so that, through her testimony and that of her witnesses as well as the exhibits introduced at the hearing, she produces "in the finder's mind a firm belief or conviction with regard to the truth of the allegations sought to be established." *O' Daniel v. Messier*, 905 S.W. 2<sup>nd</sup> 182, 188 (Tenn. Ct. App. 1995). We find that the evidence Bailey presented meets this standard.

More specifically, as outlined in *Walter Ray Culp, III v. Board of Professional Responsibility for the Supreme Court of Tennessee*, No. M2021-01816-SC-R3-BP (Tenn. 2013), witnesses must know about the nature of the misconduct leading to the suspension and must have interacted with the petitioning attorney in order to form an opinion. See also *Milligan v. Bd. Of Prof'l Responsibility*, 259 S.W. 3d 619, 632 (Tenn. 2009). In this cause, we find that all of Bailey's witnesses knew about her misconduct in detail, her recovery, and had a lot of interaction with Bailey both before and during her suspension. The evidence and testimony presented at the hearing met this standard.

2) **REQUIREMENTS set forth in Tenn. S. Ct. R. 9 Section 30.4(d)(1):**

**Moral Qualifications:**

In *Hughes v. Board of Professional Responsibility of the Supreme Court of Tennessee*, 259 S.W. 3d 361, Tenn. 2008), the Court set forth the evidence necessary to establish that a lawyer is morally qualified to practice law. More than "conclusory statements" are required. *Id.* Rather, the applicant must demonstrate "specific facts and circumstances which have arisen since" the disciplinary action "that demonstrate either rehabilitation or remorse. *Id.* Citing *Murphy v. Bd. Of Prof'l Responsibility*, 924 S.W.2d 643, 647 (Tenn. 1996).

Bailey testified that she is remorseful for her conduct that resulted in her suspension, which largely falls into the category of a lack of diligence on behalf of her clients. Bailey showed a genuine understanding

of the privilege and responsibilities of a lawyer to her clients, and testified that she has sought out religious guidance, psychotherapy, the guidance of TLAP, the support of colleagues and friends to address and prevent future problems with diligence. She also demonstrated that she had been a caring and competent lawyer prior to the behaviors that gave rise to her suspension. Ms. Bailey was honest, transparent, and forthcoming with the disciplinary panel, TLAP, and with BPR about her mistakes. The disciplinary panel finds Bailey's testimony to be credible and that the same was supported by the testimony of all witnesses and the exhibits offered into evidence.

Mr. Daniel Boyd, attorney in Rogersville, Tennessee and juvenile judge for Hawkins County testified that, for many years prior to her suspension, Bailey was diligent, prepared, and a strong advocate for her clients in his court. He gave her a glowing recommendation and verified her remorse at her behavior leading up to the suspension, her mental health struggles, her honesty about her mistakes, and her steps to establish a support system and better mental health for herself so that these behaviors did not occur again. The disciplinary hearing panel found his testimony credible.

Ms. Skelton and Ms. Bennett, both of whom are attorneys in good standing in Tennessee and have known Bailey for many years, testified as to her kindness, her good moral character, her remorse for her past mistakes, and the fact that she has learned from them. They both affirmed that Bailey had taken steps to ensure her mistakes were not repeated and that Bailey had and did reach out to them for help and support when feeling stressed or in need of guidance. They testified that Bailey was both a good lawyer and a good person. The disciplinary hearing panel found their testimony credible.

Mr. Buddy Stockwell, professional recovery interventionist with TLAP who knows Bailey, testified that Bailey did not have any mental health diagnoses or character problems; rather, she had experienced a mental health crisis that led to a fitness issue. He confirmed that her fitness issue was resolved because Bailey was willing to do, and had done, the work needed to resolve it. The disciplinary hearing panel found his testimony credible.

Mr. Brian Head, one of Bailey's supervisors at her current job with Eastman Chemical Company, testified (as did all of the witnesses) that Bailey had been and continued to be honest and transparent with him about her suspension, her mistakes, and her weaknesses with communication and self-confidence. He, as did all other witnesses, reported marked improvements in these areas and expressed confidence in Bailey both as an employee and as a person. The disciplinary hearing panel found his testimony credible.

This factor favors Bailey's reinstatement.

#### **Competency and Learning in the Law:**

Bailey was suspended for over a year prior to filing her Petition for Reinstatement, but certainly less than ten (10) years (meaning that there is no presumption that she retake the essay portion of the bar to be reinstated). See *Office of Disciplinary Council v. Davis* 696 S.W. 2d 528, 532 (Tenn. 1985). She practiced as recently as 2019. Bailey presented proof that during her suspension she took specific measures, in the form of CLE, that enabled her to maintain her competency and knowledge of the law. Before filing to remove her suspension, she completed and complied with all her Continuing Legal Education (CLE) requirements through the conclusion of 2021. She testified at some length about the type and nature of the CLE that she has taken, most of which was very relevant to her current employment. Bailey and her employers at Eastman Chemical Company confirmed that Bailey has

unlimited access to as much CLE as she needs and desires. She provided CLE records to support her testimony.

Mr. Boyd testified that Bailey was always prepared, knew the law, was a good advocate for her clients, worked hard, and that he would welcome her back into his courtroom and appoint cases to her if she so desired and if she were reinstated.

Ms. Bennett testified that Bailey was one of the most intelligent people she ever met, and that she had recommended Bailey for employment at a company in Knoxville. Ms. Bennett further testified that she did not make such recommendations lightly. Ms. Bennett reiterated that Bailey was handling adversity better, that her confidence was restored, and that she had a good support system in place.

Mr. Boyd, Ms. Bennett, and Ms. Skelton all testified that, not only did they serve as a support system for Bailey, but also that Bailey was a support for them. All three affirmed that Bailey would benefit the bar if readmitted and that she was already helping her fellow attorneys with their mental health needs because of the insights she gained in therapy.

This factor favors Bailey's reinstatement.

**Resumption of Practice of law *will not be:***

**A) Detrimental to the integrity and standing of the bar**

According to *Hughes*, 259 S.W. 3d 361 at 646, this analysis requires that we consider the nature of the conduct that led to Bailey's suspension and any impact her conduct will have on the integrity of and public trust in the justice system.

Bailey was suspended based on diligence and communication issues. Bailey herself, Mr. Stockwell, Mr. Boyd, Ms. Skelton, and Ms. Bennett all confirmed that Bailey's problems with diligence developed after years of practice and stemmed from mental health concerns exacerbated by the solo practice of law, isolation, lack of support system, and trauma. While she had one prior, very short suspension due to failure to respond to a disciplinary complaint that was, at least in part due to some address confusion, Bailey's legal career was largely unblemished prior to her current suspension. She has not committed any felonies or engaged in conduct that undermines faith in the judicial system.

Mr. Boyd, Ms. Bennett and Ms. Skelton all testified that, not only did they serve as a support system for Bailey, but also that Bailey was a support for them. All three affirmed that Bailey would be a benefit to the bar if reinstated.

Mr. Stockwell testified that Bailey was a success story, that she had done the work needed to resolve her mental health issues, and that she is clinically fit and safe to practice law. He went on to explain that, per Bailey's contract with TLAP, she will need to continue to work with the program for at least another year but confirmed that she had been cooperating thus far and he had no doubt she would continue to do so.

This factor favors Bailey's reinstatement.

**B) Detrimental to the administration of justice**

Bailey and all of her witnesses testified that she had learned from her mistakes and from the requirements and treatments imposed by the BPR and TLAP. Bailey herself testified that the suspension and BPR action were just what she needed to identify her problems and help her to learn from them. Bailey has served more than 45 days of active suspension and has learned from her mistakes. X

Based on the testimony and evidence presented, the hearing panel believes that reinstatement at this time, considering the post-suspension conduct of and original offenses of Bailey, would not have a negative impact on the public's confidence in the administration of justice. The hearing panel believes that reinstatement at this time, considering Bailey's post-suspension conduct of and her original offenses, would not have a negative impact on the public's confidence in the administration of justice.

This factor favors Bailey's reinstatement.

C) Subversive to the public interest:

Mr. Stockwell testified that Bailey was a success story, and that she is clinically fit and safe to practice law. Her psychological records show no diagnoses that would threaten the public. Mr. Stockwell went on to state that Bailey had identified the issues that led to her mental health problems and has taken all necessary steps to ensure they are not problems for her or for her clients in the future.

Bailey's testimony and that of her witnesses demonstrate her transparency about and her mature approach to her past problems. She and her witnesses outlined numerous measures Bailey has taken to ensure that her mistakes are not repeated and therefore that no clients nor the public will be harmed by her reinstatement. Bailey has learned and successfully deployed coping strategies in times of stress, including daily devotionals, reaching out to friends and colleagues, talk therapy, breathing exercises, and has even found new employment with Eastman Chemical Company, a job she enjoys and at which she excels. Bailey has ample support at her new position, has several mentors, is not isolated, has economic security, and has learned to cope with the stresses of practicing law in healthy ways. Bailey has an opportunity for career advancement in her current position and reinstating her ability to practice law will help her with that. Her employer is pleased with her current performance and believes in her future potential. Bailey, Mr. Head, and Ms. Bennett all testified that Bailey has the opportunity at Eastman to become in-house counsel there, and it is very likely that she will join Eastman's legal team if /when she is reinstated. Bailey cannot join the team, however, if her license is not reinstated.

This factor favors Bailey's reinstatement.

3) Bailey has met, and BPR agrees that she has satisfied, all conditions set forth in the order imposing discipline and has paid all costs of the BPR incurred in the prosecution of discipline against her.

This factor favors Bailey's reinstatement.

4) Bailey is willing to engage, at her own expense, a practice monitor. She has provided BPR with three options, which the BPR will vet and advise Bailey of whom she shall engage to serve in that capacity.

This factor favors Bailey's reinstatement.

**WHEREFORE, FORMER PREMISES CONSIDERED, THE HEARING PANEL RECOMMENDS AND ORDERS, SUBJECT TO THE APPROVAL OF THE TENNESSEE SUPREME COURT:**

1) That Bailey's psychological evaluation and records entered into evidence at this hearing are hereby placed under seal and shall not be viewed by another person except by the disciplinary hearing panel, BPR, and the Tennessee Supreme Court.

2) That Bailey's active suspension be lifted and that she be reinstated to the practice of law in the State of Tennessee subject to the following conditions:

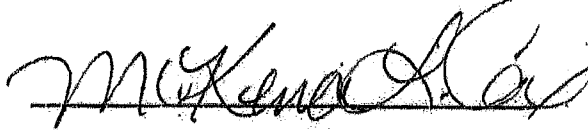
A) That Bailey continues with and completes her contract with TLAP, follows all recommendations thereof, and that she authorizes the BPR to communicate with and access the records of TLAP to verify her compliance therewith.

B) That, in accordance with Tenn. S. Ct. R. 9, Section 12.9(c), for the remaining period of her probation pursuant to the Order of the Tennessee Supreme Court dated January 8, 2020 Bailey will engage a practice monitor approved by the BPR at her own expense and with whom she meets at least once a week via video conference or in person (with reasonable exceptions for holidays and vacations). The practice monitor will provide monthly reports to disciplinary counsel.

C) That Bailey pays all remaining costs affiliated with her reinstatement, if any.

D) That Bailey incurs no new disciplinary complaints on which BPR recommends disciplinary action during the remainder of her probationary period.

Signed, this, the 28th day of October, 2021



McKenna L. Cox, BPR No. 024374

Chair of Disciplinary Panel

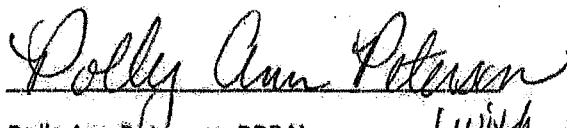
104 E. Main St.

Johnson City, TN 37604

423-434-4700

423-434-4738 fax

[Mcox@lawverfirm.com](mailto:Mcox@lawverfirm.com)



Polly Ann Peterson, BPR No.

311 W. Walnut St.

Johnson City, TN 37604

423-92808311

[Papetersonlaw@gmail.com](mailto:Papetersonlaw@gmail.com)

*(with permission  
and by request  
- msc)*

K. Kidwell King, Jr.

K. Kidwell King, Jr. BPR No.

125 S. Main St.

Greeneville, TN 37743

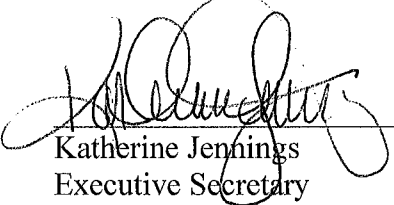
423-639-6881

[Kidwell@kidwellking.com](mailto:Kidwell@kidwellking.com)

(with permission  
and by request  
-mxc)

**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing has been sent to Petitioner, Whitney Suzanne Bailey, 1029 Bryan Court, Kingsport, TN, 37660, by U.S. First Class Mail, and hand-delivered to Russ Willis, Disciplinary Counsel, on this the 29th day of October 2021.

  
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.**