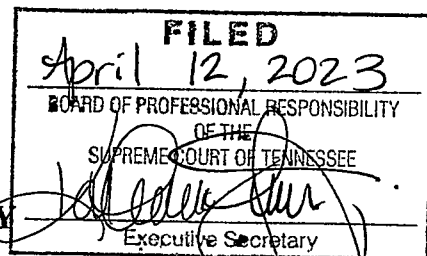


**IN DISCIPLINARY DISTRICT II  
OF THE  
BOARD OF PROFESSIONAL RESPONSIBILITY  
OF THE  
SUPREME COURT OF TENNESSEE**



**IN RE: KENT LOWERY BOOHER,  
BPR No. 011416, Respondent,  
an Attorney Licensed to Practice  
Law in Tennessee  
(Roane County)**

**DOCKET NO. 2022-3264-2-AW-22**

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**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND JUDGMENT**

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This matter came before the Hearing Panel for final hearing on March 29, 2023, via telephone, beginning at 2:00 p.m. EST. Present at the hearing were Hanson R. Tipton, Hearing Panel Chair; Robyn J. Askew, Hearing Panel Member; Marshall H. Peterson, Hearing Panel Member; and Douglas R. Bergeron, Disciplinary Counsel. Mr. Booher did not appear at this final hearing after receiving proper notice of the date, time, and telephonic access information for the hearing.

**STATEMENT OF THE CASE**

On July 22, 2022, the Supreme Court of Tennessee suspended Kent Lowery Booher from the practice of law until further orders of the Court pursuant to Tenn. Sup. Ct Rule 9, § 22. The Court's Order directed Disciplinary Counsel to institute formal proceedings to determine the extent of final discipline based upon Mr. Booher's conviction by verdict of the jury of (i) Coercion and Enticement, two counts, (18 U.S.C. § 2422(b)); (ii) Penalties for Registered Sex Offenders (18 U.S.C. § 2260A); (iii) Sex Trafficking of Children or by Force, Fraud, or Coercion (18 U.S.C. §§ 1591(a)(1), (b)(2), and (c); and (iv) Sexual Exploitation of Children (18 U.S.C § 2251) in the

United States District Court for the Eastern District of Tennessee.

Mr. Booher was served with the Final Petition for Discipline on or about December 12, 2022. Mr. Booher did not Answer the Petition. At the final hearing, Disciplinary Counsel introduced five (5) exhibits, which consisted of a full copy of the Petition filed against Mr. Booher (including certified copies of all guilty verdicts referenced herein,) and certified copies of four (4) separate instances of prior discipline introduced as evidence of aggravating factors. No testimony was presented.

### **FINDINGS OF FACT**

The Petition for Final Discipline charges Mr. Booher with violations of Rules of Professional Conduct 8.4(a), (b), (c), and (d), which state as follows:

It is professional misconduct for a lawyer to:

- (a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;
- (b) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects;
- (c) engage in conduct involving dishonesty, fraud, deceit, or misrepresentation;  
and,
- (d) engage in conduct that is prejudicial to the administration of justice.

Supreme Court Rule 9, Section 22.6 states that “[a] certified copy of the judgment, plea of nolo contendere or guilty plea, or an affidavit or declaration under penalty of perjury with other adequate proof of a conviction of an attorney for any crime, shall be conclusive evidence of the

commission of that crime in any disciplinary proceeding instituted against the attorney based upon the conviction.”

It is therefore concluded, pursuant to Supreme Court Rule 9, Section 22.6, that Mr. Booher was guilty of five (5) separate and distinct felonies. It is further concluded that the felonies of which Mr. Booher is guilty consist of illegal sexual contact with minor children, intent to distribute visual media relative to that illegal conduct, and violations of the sex offender registry, of which Mr. Booher was a member. The Hearing Panel incorporates by reference herein Exhibit 1 to the Board’s Petition for Discipline to fully describe the felonies committed.

### **CONCLUSIONS OF LAW**

Pursuant to Tenn. Sup. Ct R. 9, § 1, the license to practice law in this state is a privilege and it is the duty of every recipient of that privilege to conduct himself at all times in conformity with the standards imposed upon members of the bar as conditions for the privilege to practice law. Acts or omissions by an attorney which violate the Rules of Professional Conduct (hereinafter “RPC”) of the State of Tennessee shall constitute misconduct and be grounds to fix discipline.

The certified copy of the verdict form finding Mr. Booher guilty in the matter of in United States of America v. Booher, Docket No. 3:19-CR-161-TAV-HBG, conclusively establishes that Mr. Booher committed the referenced crimes and Mr. Booher’s commission of these crimes constitutes violations of RPC 8.4 (a-d) as alleged in the Petition for Final Discipline and as set forth above.

### **APPLICATION OF ABA STANDARDS**

When disciplinary violations are established by a preponderance of the evidence, the

Hearing Panel must consult the appropriate application of the ABA Standards for Imposing Lawyer Sanctions (“ABA Standards”) pursuant to Tenn. Sup. Ct. R. 9, § 15.4.

The following ABA Standards have application to the findings in this case:

### **5.1 Failure To Maintain Personal Integrity**

5.11 Disbarment is generally appropriate when:

- (a) a lawyer engages in serious criminal conduct, a necessary element of which includes intentional interference with the administration of justice, false swearing, misrepresentation, fraud, extortion, misappropriation, or theft; or the sale, distribution, or importation of controlled substances; or the intentional killing of another; or an attempt or conspiracy or solicitation of another to commit any of these offenses; or
- (b) a lawyer engages in any other intentional conduct involving dishonesty, fraud, deceit, or misrepresentation that seriously adversely reflects on the lawyer’s fitness to practice.

### **6.1 False Statements, Fraud, and Misrepresentation**

Absent aggravating or mitigating circumstances, upon application of the factors set out in Standard 3.0, the following sanctions are generally appropriate in cases involving conduct that is prejudicial to the administration of justice or that involves dishonesty, fraud, deceit, or misrepresentation to a court:

6.11 Disbarment is generally appropriate when a lawyer, with the intent to

deceive the court, makes a false statement, submits a false document, or improperly withholds material information, and causes serious or potentially serious injury to a party, or causes a significant or potentially significant adverse effect on the legal proceeding.

## **7.0 Violations of Other Duties as a Professional**

Absent aggravating or mitigating circumstances, upon application of the factors set out in Standard 3.0, the following sanctions are generally appropriate in cases involving false or misleading communication about the lawyer or the lawyer's services, improper communication of fields of practice, improper solicitation of professional employment from a prospective client, unreasonable or improper fees, unauthorized practice of law, improper withdrawal from representation, or failure to report professional misconduct.

7.1 Disbarment is generally appropriate when a lawyer knowingly engages in conduct that is a violation of a duty owed as a professional with the intent to obtain a benefit for the lawyer or another and causes serious or potentially serious injury to a client, the public, or the legal system.

7.2 Suspension is generally appropriate when a lawyer knowingly engages in conduct that is a violation of a duty owed as a professional and causes injury or potential injury to a client, the public, or the legal system.

### **Aggravating Factors**

Pursuant to ABA Standard 9.22, the hearing panel finds that the following aggravating factors are present in this case:

- (a) prior disciplinary offenses;
- (c) a pattern of misconduct;
- (d) multiple offenses (Mr. Booher was found guilty of five different criminal statutes);
- (g) refusal to acknowledge wrongful nature of conduct;
- (h) vulnerability of victims;
- (i) substantial experience in the practice of law (Mr. Booher was licensed to practice in 1985); and
- (k) Illegal conduct.

**Mitigating Factors**

No evidence of any mitigating factors was presented.

**JUDGMENT**

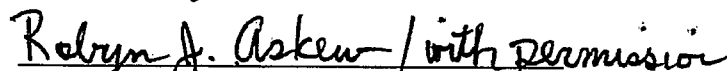
Based upon the conclusive evidence of Mr. Booher's federal criminal convictions as described herein, the application of all aggravating and mitigating factors, and the application of the ABA Standards, the Hearing Panel concludes that the appropriate sanction in this case is that Mr. Booher should be permanently disbarred pursuant to Tenn. Sup. Ct. R. 9, § 12.1.

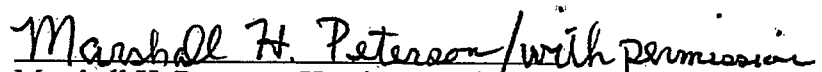
**NOTICE**

This judgment may be appealed pursuant to Tenn. Sup. Ct. R. 9, § 33, by filing a Petition for Review in the Circuit or Chancery Court within sixty (60) days of the date of entry of the hearing panel's judgment.

ENTERED ON THIS 12TH DAY of April 2023.

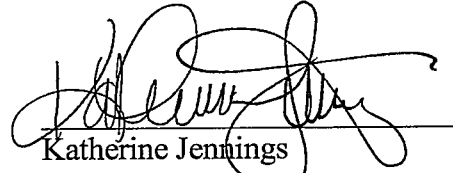
  
Hanson R. Tipton, Hearing Panel Chair

  
Robyn J. Askew, Hearing Panel Member

  
Marshall H. Peterson, Hearing Panel Member

**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing has been sent to Kent Lowery Booher, 819 Trenton Street, Harriman, TN 37748 and FCI Edgefield, Registered No. 54530-074, P.O. Box 725, Edgefield, SC 29824, by U.S. First Class Mail, and hand-delivered to Douglas R. Bergeron, Disciplinary Counsel, on this the 12th day of April 2023.

  
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.**