



BOARD OF PROFESSIONAL RESPONSIBILITY
of the
SUPREME COURT OF TENNESSEE

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RELEASE OF INFORMATION
RE: TONY N. BRAYTON, BPR# 013725

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BOARD OF PROFESSIONAL RESPONSIBILITY
615-361-7500

January 30, 2007

MEMPHIS LAWYER CENSURED

Tony N. Brayton, of Memphis, was publicly censured by the Board of Professional Responsibility on January 30, 2007. The censure was issued by the Board pursuant to Rule 9, Section 8 of the Rules of Tennessee Supreme Court. Brayton did not request a hearing on the matter.

A complaint alleging ethical misconduct was filed against Brayton alleging failure to properly communicate with a client, and failure to move with reasonable diligence. Brayton was appellate counsel with the Shelby County Public Defender's Office for a defendant in a first degree murder case wherein the Tennessee Supreme Court upheld the conviction and death penalty in late February of 2006 on direct appellate review. Both the client and the State Post-Conviction Defender expected Brayton to file both a petition for rehearing with the Tennessee Supreme Court and a direct petition for writ of certiorari with the U.S. Supreme Court.

Brayton did neither, and did not inform the client or the Office of the Post-Conviction Defender of his decision before the expiration of the ninety day period in which to file the petition for writ of certiorari. Further, Brayton did not move to withdraw before the Tennessee Supreme Court in sufficient time to allow the State Post-Conviction Defender the ability to assume representation, to check out the record, and to timely file the petition for writ of certiorari. Neither the client nor the State Post-Conviction Defender learned that Brayton had not filed the petition for writ of certiorari until mid-July of 2006, and the Post-Conviction Defender's motion requesting the U.S. Supreme Court to accept a late-filed petition for writ of certiorari was denied in October of 2006.

On these facts, the Board found that Brayton did not properly explain to his client or to the Post-Conviction Defender his decision to refrain from filing a petition for writ of certiorari. The Board also found that Brayton did not move to withdraw in sufficient time, and that his failures in this regard resulted in a waiver of the client's right to file a direct certiorari petition in the U.S. Supreme Court.

Brayton 29272-9 rel.doc

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