

IN DISCIPLINARY DISTRICT VII
OF THE
BOARD OF PROFESSIONAL RESPONSIBILITY
OF THE
SUPREME COURT OF TENNESSEE

FILED

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BOARD OF PROFESSIONAL
RESPONSIBILITY

EW EXEC. SEC.

IN RE: STEPHEN CHRISTOPHER BROOKS,
BPR No. 20439, Respondent, a lawyer
Licensed to practice in Tennessee
(Madison County)

DOCKET NO. 2015-2494-7-AJ

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter came to be heard on March 17, 2017, for final hearing on the Board of Professional Responsibility's (Board) Petition for Discipline before Teresa Marshall, Panel Chair, Mathew Floyd, Panel Member and Leanne Thorne, Panel Member, Alan D. Johnson, Disciplinary Counsel, appeared on behalf of the Board. Stephen Christopher Brooks represented himself.

STATEMENT OF THE CASE

On September 2, 2015, the Supreme Court of Tennessee issued an order pursuant to Tennessee Supreme Court Rule 9, Section 22.2, upon a Notice of Submission filed by Disciplinary Counsel for the Board of Professional Responsibility consisting of a certified copy of the judgment entered June 25, 2015 in the Circuit Court for Madison County, Tennessee in the matter of State of Tennessee v. Stephen Christopher Brooks, demonstrating that Stephen Christopher Brooks, an attorney licensed to practice law in Tennessee, has pleaded guilty to a crime, i.e., violation of T.C.A. 39-17-418, simple possession Schedule II cocaine and violation of T.C.A. 37-17-425, possession of paraphernalia. The Court ordered that the matter shall be referred to the Board for whatever action the Board may deem warranted.

On September 29, 2015, the Board filed a petition for discipline against Stephen Christopher Brooks. On January 15, 2016, Mr. Brooks filed a conditional guilty plea pursuant to Tennessee Supreme Court Rule 9, Section 24. On January 21, 2016, this Hearing Panel of the Board filed an order recommending approval of the conditional guilty plea. The Board approved the Hearing Panel's order recommending approval of the conditional guilty plea.

A Notice of Submission and Protocol Memorandum was filed with the Supreme Court on February 8, 2016, by Disciplinary Counsel for the Board. On February 12, 2016, the Supreme Court of Tennessee issued an order stating that the matter was before the court pursuant to Tennessee Supreme Court Rule 9, Section 15.4, upon a Notice of Submission and Protocol Memorandum filed with the Supreme Court on February 8, 2016. Based upon the court's concerns regarding the combination of Mr. Brooks' criminal offenses, his continued drug use, and his dishonesty before the trial court, the court rejected the conditional guilty plea pursuant to Tennessee Supreme Court Rule 9, Section 24, and referred "this matter to the Board for further proceedings consistent with this order."

Mr. Brooks filed an answer to the Petition on March 21, 2016. The case was tried before this Hearing Panel on May 18, 2016. The Hearing Panel filed Findings of Fact and Conclusions of Law on June 3, 2016, and entered an Order on Board of Professional Responsibility's Application for Costs on August 5, 2016.

Following expiration for the time to appeal, the Board submitted a Protocol Memorandum and Proposed Order of Enforcement to the Tennessee Supreme Court. At that time, the Board had learned Respondent had violated the terms of his probation in the Madison County Criminal case and had not complied with his TLAP monitoring agreement. The Board notified the Court of these developments. The Court remanded the case to the Hearing Panel "for reconsideration in light of

the following: that Mr. Brooks has allegedly not complied with his TLAP monitoring agreement; that Mr. Brooks has allegedly violated the terms of his probation; and any other facts that have arisen since the May 18, 2016 hearing.”

FINDINGS OF FACTS

File No. 41133-7-PS – BOARD

The relevant facts introduced at the hearing on March 17, 2017, concern events that have transpired since the May 18, 2016, hearing, concerning allegations that Mr. Brooks violated his TLAP monitoring agreement and the terms of his probation. Based upon evidence presented at the March 17, 2017, hearing, the Hearing Panel finds Mr. Brooks violated the terms and conditions outlined by this Hearing Panel on May 18, 2016. Based upon Mr. Brooks’ own admissions, he did not comply with the TLAP monitoring agreement. He executed the agreement on June 1, 2016, and did nothing further thereafter.

Exhibit 9, introduced at the hearing, is a certified copy of an affidavit executed by the Madison County Department of Community Corrections case worker, Sandra Ellis, assigned to oversee Mr. Brooks’ probation. The affidavit states Mr. Brooks tested positive for cocaine on June 22, 2017, and he failed to report to Community Corrections upon exiting Hope Center Ministries on April 16, 2016, and did not report to Community Corrections until June 22, 2017.

Mr. Brooks admitted at the hearing he used cocaine within approximately five (5) days after completing the Hope Center Ministries program on June 12, 2016. Mr. Brooks took the position that although he was released from the in-patient phase (phase II) of the Hope Center Ministries program on April 16, 2016, he continued with Hope Center Ministries in an out-patient phase (phase III) until June 12, 2016, when he completed the program. Accordingly, Mr. Brooks took the position he was not obligated to report to Community Corrections when he completed

Phase II on April 16, 2016, and the obligation did not arise until he completed phase III on June 12, 2016. Mr. Brooks introduced Exhibit 14, which is his certification of completing the program.

Based upon Mr. Brooks' own admission, he understood he was to report to Community Corrections within twenty-four (24) hours of his release from Hope Center Ministries. While it is reasonable to conclude Mr. Brooks should have reported to Community Corrections with twenty-four (24) hours of April 16, 2016, he nevertheless waited ten (10) additional days from completion of the program on June 12, 2016, to report to Community Corrections.

CONCLUSIONS OF LAW

Pursuant to Tenn. S. Ct. R. 9, § 3, 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 for discipline.

The Board has already established by a preponderance of the evidence that Mr. Brooks has violated RPC 8.4: (a), (b), (c), (d), and (g). 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 to 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;

(d) engage in conduct that is prejudicial to the administration of justice; and

(g) knowingly fail to comply with a final court order entered in a proceeding in which the lawyer is a party, unless the lawyer is unable to comply with the order or is seeking in good faith to determine the validity, scope, meaning, or application of the law upon which the order is based.

Specifically, Mr. Brooks committed the criminal acts as established by his guilty plea. He was dishonest with the trial court as established by his revocation of probation and more specifically outlined in Exhibit 5, the Order on Probation Violation and Amending Sentence. His non-compliance with his probation officer and dishonesty was prejudicial to the administration of justice. He knowingly failed to comply with a court order resulting in the revocation of his probation, and he knowingly failed to report to Community Corrections within twenty-four (24) hours after his release from Hope Center Ministries.

At the May 18, 2016, hearing, this Hearing Panel recommended the following sanctions:

Mr. Brooks is to be suspended from the practice of law for three (3) years, with six (6) months of active suspension and the remainder on probation pursuant to Tennessee Supreme Court Rule 9, Section 12.4.

Mr. Brooks shall comply with the following conditions of probation:

He has already contacted Tennessee Lawyers Assistance Program, and he has entered into a three-year contract with TLAP. He shall honor that contract as the terms of this sentence of suspension and probation.

Upon reinstating to the practice of law, Mr. Brooks shall engage a practice monitor at his own expense who shall meet with him twice a month, face to face, and talk to him weekly at least once to review his basic office procedures, such as the scheduling and maintenance of case deadlines and the use of written communications and fee agreements. The practice monitor shall send monthly reports of those meetings to the Board. Mr. Brooks shall select three potential practice monitors and submit the names to the Board for final approval of a practice monitor.

During the period of active suspension and probation, Mr. Brooks shall incur no new complaints of misconduct that relate to conduct occurring during the period of suspension and probation that results in the recommendation by the Board that discipline be imposed.

Mr. Brooks shall also complete the terms of his probation through the criminal court action as ordered by that court. Before his license is reinstated after six months of active suspension, he shall complete all the requirements of the administrative suspension relative to the fine or fee that has been assessed against him, as well as the CLE completion.

In the event that Mr. Brooks violates or otherwise fails to meet any condition of probation, Disciplinary Counsel is authorized to file a petition to revoke his probation. Upon the finding that the revocation is warranted, Mr. Brooks shall serve the previous deferred period of suspension.

At the May 18, 2016, hearing, this Hearing Panel was very supportive of Mr. Brooks' efforts to get his life together, deal with his addiction and become a sober and productive member of society and the legal profession. The members of the Hearing Panel were rooting for him more than he will ever know.

It is unfortunate that, after such a lengthy in-patient and out-patient program, he began using with five (5) days of completing the program. He has had some tremendous family losses recently, and those are unimaginable. While we appreciate Mr. Brooks was honest and forthcoming at the hearing, even admitting that he has used drugs in the past month, it is a concern to this Hearing Panel that today we have not heard anything Mr. Brooks has done in an effort to comply with any of the conditions we set out at the May 18, 2016, hearing, and Findings of Fact and Conclusions of Law filed on June 3, 2016.

It is our job to protect members of the community from anything Mr. Brooks might do in the practice of law while under the influence. Fortunately, we have not heard from any clients who claim to be harmed by Mr. Brooks, and that is a miracle. We have heard, repeatedly, that Mr. Brooks continues to engage in self-harming conduct.

When disciplinary violations are established by a preponderance of the evidence, the appropriate discipline must be based upon application of the ABA Standards for Imposing Lawyer Sanctions, ("ABA Standards") pursuant to Section 8.4, Rule 9 of the Rules of the Supreme Court.

- 5.12 Suspension is generally appropriate when a lawyer knowingly engages in criminal conduct which does not contain the elements listed in Standard 5.11 and that seriously adversely reflects on the lawyer's fitness to practice.
- 6.12 Suspension is generally appropriate when a lawyer knows that false statements or documents are being submitted to the court or that material information is improperly being withheld, and takes no remedial action, and causes injury or potential injury to a party to the legal proceeding, or causes an adverse or potentially adverse effect on the legal proceeding.
- 6.22 Suspension is generally appropriate when a lawyer knows that he or she is violating a court order or rule, and causes injury or potential injury to a client or a party, or causes interference or potential interference with a legal proceeding.

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

- (b) a pattern of misconduct;
- (c) multiple offenses;
- (i) substantial experience in the practice of law, having been licensed in 2000; and
- (k) illegal conduct, including that involving the use of controlled substances.

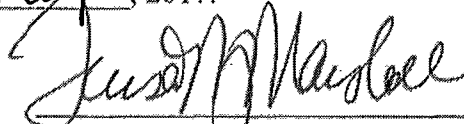
Pursuant to ABA Standard 9.22, the following ^{Mitigating} ~~aggravating~~ factors are present in this case:

- (c) personal or emotional problems;
- (e) full and free disclosure to disciplinary board or cooperative attitude toward proceedings;

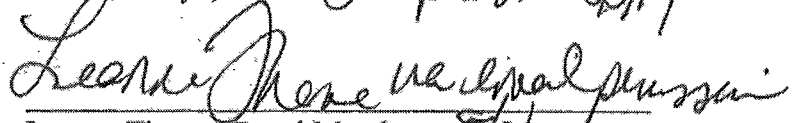
Mr. Brooks testified that as important as his law license is, his life is more important. The Hearing Panel agrees. Mr. Brooks deserves the opportunity to work on his sobriety free from the stress of practicing law, which, as we all know, is a very stressful profession. Our hope is that by relieving Mr. Brooks of the stress of practicing law, he can find another means of supporting himself and save himself. Accordingly, it is the ruling of this Hearing Panel that Mr. Brooks be suspended from the practice of law for five (5) years, pursuant to Tenn. Sup. Ct. R. 9, § 12.2.

The costs of this cause, as set forth in Tenn. Sup. Ct. R. 9, § 31.3 (a), will be taxed to Mr. Brooks following entry of this judgment pursuant to the procedures established in Tenn. Sup. Ct. R. 9, § 31.3 (a).

It is so ordered this 4th day of May, 2017.


Teresa Marshall, Panel Chair


Mathew Floyd, Panel Member *per son 5/17*

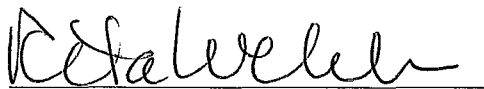

Leanne Thorne, Panel Member *5/3/17*

NOTICE TO RESPONDENT

This judgment may be appealed pursuant to Tenn. Sup. Ct. R. 9, § 3.3.

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Findings of Fact and Conclusions of Law has been sent to Respondent, Stephen C. Brooks, 25 Brooks Drive, Jackson, TN 38301, by U.S. First Class Mail, and hand-delivered to Alan D. Johnson, Disciplinary Counsel, on this the 17th day of May, 2017.



Rita Webb
Executive Secretary

NOTICE

This judgment may be appealed pursuant to Tenn. Sup. Ct. R. 9, § 33 (2014) 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.