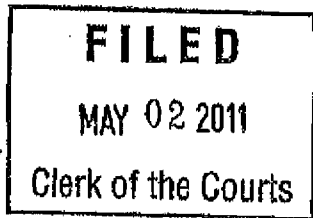


IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE



**DAVID E. DANNER v. BOARD OF PROFESSIONAL RESPONSIBILITY
OF THE SUPREME COURT OF TENNESSEE**

**Direct Appeal from the Chancery Court for Davidson County
No. 097921 Allen W. Wallace, Senior Judge**

No. M2010-02396-SC-R3-BP - Filed: May 2, 2011

ORDER

On April 14, 2009, a Hearing Panel of the Board of Professional Responsibility (“Board”) ordered Mr. David E. Danner suspended from the practice of law for thirty days and directed him to pay \$2,500 in restitution and to successfully complete an ethics course at an accredited law school in Tennessee within eighteen months of the entry of the Hearing Panel’s judgment.

Mr. Danner sought review of the Hearing Panel’s judgment pursuant to Tennessee Supreme Court Rule 9, section 1.3, which provides that a party dissatisfied with the decision of a Hearing Panel may obtain judicial review by filing a petition for a writ of certiorari in accordance with Tennessee Code Annotated sections 27-9-101 through -114 (2000 & Supp. 2010). Tennessee Code Annotated section 27-8-106 (2000) requires that a petition for writ of certiorari be “sworn to” and state that “it is the first application for the writ.” On December 20, 2010, this Court held that the failure to satisfy the foregoing statutory requirements deprives a trial court of jurisdiction to review the Hearing Panel’s decision. Bd. of Prof'l Responsibility v. Cawood, 330 S.W.3d 608, 609 (Tenn. 2010).

On February 18, 2010, the trial court orally affirmed the Hearing Panel’s decision, and in an order filed September 29, 2010, denied Mr. Danner’s motion for new trial. Mr. Danner filed a notice of appeal on November 8, 2010, but failed to file an appeal bond. After this Court ordered Mr. Danner either to file an appeal bond or to show cause why the appeal should not be dismissed, Mr. Danner filed a response asserting that the trial court had failed to enter a written judgment as required by Tennessee Rule of Civil Procedure 58. As a result, on January 19, 2011, this Court remanded to the trial court for entry of a written judgment in accordance with Rule 58 and for consideration of whether Mr. Danner’s petition complied with the statutory requirements that are essential, as explained in Cawood, to confer jurisdiction upon the trial court.

On February 10, 2011, the trial court entered a written judgment affirming the Hearing Panel's judgment. Furthermore, the trial court held in response to this Court's January 19, 2011 order that it lacked jurisdiction to consider Mr. Danner's appeal because his petition for writ of certiorari contained neither an oath or an affirmation as required by Tennessee Code Annotated section 27-8-106 and Cawood.

On March 4, 2011, the Board filed a motion to dismiss Mr. Danner's appeal for lack of subject matter jurisdiction. On March 15, 2011, this Court entered an order taking the Board's motion under advisement and stating that the appeal should proceed in accordance with the Tennessee Rules of Appellate Procedure.

On March 23, 2011, the record was filed with the Appellate Court Clerk's Office. We have now reviewed the record and agree with the trial court that Mr. Danner's petition for writ of certiorari contained neither an oath or an affirmation and therefore failed to satisfy the statutory requirements that Cawood identified as necessary to confer subject matter jurisdiction upon the trial court. Accordingly, the Board's motion to dismiss Mr. Danner's appeal is hereby GRANTED, and the orders of the trial court affirming the Hearing Panel's judgment are vacated. Because no appeal has been properly perfected, the Board is directed to file a copy of the Hearing Panel's judgment for review by this Court in accordance with Tennessee Supreme Court Rule 9, section 8.4.

The costs of this appeal are taxed to Mr. David E. Danner, for which execution may issue if necessary.

It is so ORDERED.

PÉR CURIAM

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

Filed in the cause
This _____ day of _____, 2011
BY: _____
CLERK OF COURT