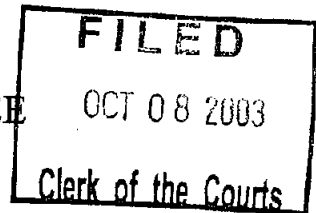


IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE



CHARLES F. FLEET, JR., BPR #9446
An Attorney Licensed in Tennessee

BOPR DOCKET NO. R-131-7-SG

NO. M2003-02431-SC-BPR-RP

ORDER OF ENFORCEMENT

In this cause, the Petitioner was suspended by Order of the Supreme Court of Tennessee dated October 2, 1998, retroactive to the Petitioner's temporary suspension on March 27, 1997. On April 18, 2001, the Petitioner filed a Petition for Reinstatement. On November 6, 2001, a Hearing Panel heard the Petitioner's Petition for Reinstatement and recommended the Petitioner be reinstated with conditions. On July 11, 2002, the Board of Professional Responsibility filed a Motion for Relief from Judgment. A hearing on the Board's Motion was held on July 17, 2003. On July 22, 2003, this Hearing Panel filed its Judgment with the Board of Professional Responsibility which concluded that the Petitioner had established by clear and convincing evidence that he has the moral qualifications, competency and learning in the law and that his resumption of the practice of law will not be detrimental to the bar, the administration of justice or the public. The Panel recommended that the Petitioner be reinstated with the following conditions:

1. That Mr. Fleet remain in contact with Mr. Albury and remain in substantial compliance with his Tennessee Lawyers Assistance Program Monitoring/Advocacy Agreement;
2. That Mr. Fleet show evidence that he is current on his CLE hours and submit his Annual Report and \$100.00 fee to the Tennessee Commission on Continuing Legal Education;
3. That Mr. Fleet submit his application to be reinstated to practice law on or before November 1, 2003;
4. That in the event Mr. Fleet's application for reinstatement to practice law is granted, that he either practice law in association with another attorney or a group of attorneys, or in the alternative, maintain a relationship with a professional peer monitor who is approved by Mr. Albury, for at least a one (1) year period of time from the date that his law license is reinstated; and

ORDER OF ENFORCEMENT
Charles F. Fleet, Jr., Respondent, BPR #9446
BOPR Docket No. R-131-7-SG

5. That if it is later shown that Mr. Fleet is not in substantial compliance with the Tennessee Lawyers Assistance Program Monitoring/Advocacy Agreement, the Board ~~should~~ *may* immediately petition the Tennessee Supreme Court to suspend his license to practice law. *aab*

A copy of the Hearing Panel's Judgment recommending the Petitioner's reinstatement with conditions is attached to this Order as Exhibit A. Mr. Fleet has satisfied the conditions recommended by the Hearing Panel.

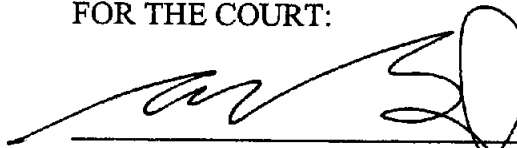
No appeal of the Hearing Panel's Judgment has been taken and the Board of Professional Responsibility has voted not to appeal the Judgment of the Hearing Panel.

It is therefore **ORDERED, ADJUDGED and DECREED** by the Court:
that the Judgment of the Hearing Panel is approved and entered for enforcement by this Court.

It is further **ORDERED** by the Court that the Petitioner, Charles F. Fleet, shall pay the costs of these proceedings in the amount of \$1,480.72, for which execution may issue if necessary.

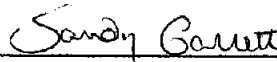
ENTERED this 8th day of October, 2003.

FOR THE COURT:



Adolpho A. Birch, Jr., Justice

APPROVED FOR ENTRY:



Sandy Garrett, BPR #13863
Disciplinary Counsel
1101 Kermit Drive, Suite 730
Nashville, TN 37217
615-361-7500
FleetOrderEnforcement-SG

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

IN RE: CHARLES F. FLEET, JR.,
BPR # 9446,

PETITIONER.

*
*
*

DOCKET NO. R-131-7-SG

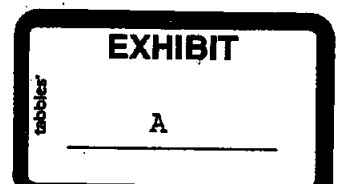
JUDGMENT OF THE HEARING PANEL

STATEMENT OF THE CASE

This matter came on to be heard before the Hearing Panel of the Board of Professional Responsibility of the Supreme Court of Tennessee upon the Board of Professional Responsibility's Motion for Relief from Judgment.

On November 6, 2001, this Hearing Panel heard evidence upon the Petition for Reinstatement of the license to practice law filed by the petitioner, Charles F. Fleet, Jr. After having carefully considered the facts and issues, this Hearing Panel recommended that Mr. Fleet's license to practice law be reinstated upon the following conditions and sanctions:

- (1) That Mr. Fleet contact Robert Albury, Executive Director of the Tennessee Lawyer's Assistance Program, and follow his recommendations relating to his admitted alcohol-related problems;
- (2) That Mr. Fleet become current on his CLE hours; and
- (3) That Mr. Fleet receive a private reprimand for his criminal conviction which the



Hearing Panel felt involved moral turpitude and for failing to respond to the Board's inquiry for additional information following his criminal conviction.

On July 11, 2002, the Board of Professional Responsibility filed a Motion for Relief from Judgment. On July 25, 2002, Mr. Fleet filed his response to the Board's motion. The hearing was held on July 17, 2003. The members of the Hearing Panel were Attorneys Gayden Drew IV, Laura A. Keeton and Stephen M. Milam. Mr. Fleet appeared and was represented by Attorney Ed Neal McDaniel. The Board was represented by Attorney Sandy Garrett.

The Hearing Panel considered the pleadings filed in this cause of action, the testimony of Mr. Fleet, the testimony of Robert Albury, the testimony of Dr. Carolyn West Willett, the testimony of Dr. Johnny Welch, the testimony of Scott Smith, the testimony of Ronnie Howie, the testimony of Barbara Fleet, the three exhibits which were duly entered into evidence and statements of counsel for Mr. Fleet and the Board.

ISSUES

The issues presented to the Hearing Panel were as follows:

- (1) Whether the Hearing Panel should grant the Board of Professional Responsibility's Motion for Relief from Judgment and reconsider the prior judgment; or
- (2) Whether the petitioner could demonstrate by clear and convincing evidence that he has the moral qualifications, competency and learning in law required for readmission to practice law in the State of Tennessee and that his resumption to the practice of law within this state will not be detrimental to the integrity and standing of the bar or the administration of justice or be subversive to the public interest, and if so, whether there should be any conditions placed upon his readmission.

Mr. Fleet's initial reinstatement hearing was held on November 6, 2001. The Judgment of that hearing is attached hereto, incorporated herein by reference and marked Exhibit 1. Said Judgment was filed on December 4, 2001. As previously stated, the Hearing Panel recommended that Mr. Fleet contact Robert Albury, Executive Director of the Tennessee Lawyers Assistance Program, and follow his recommendations relating to his admitted alcohol-related problems.

Mr. Fleet testified that he initially contacted Mr. Albury in January of 2002. Mr. Albury provided him with a Tennessee Lawyer's Assistance Program Monitoring/Advocacy Agreement at that time. Mr. Fleet subsequently saw Dr. Carolyn West Willett, a licensed psychologist, in February of 2002. Mr. Fleet testified that he had continued to consume alcohol before and after the initial hearing and after he had contacted Mr. Albury had seen Dr. Willett.

Mr. Fleet testified that he was arrested for DUI in Memphis on April 20, 2002. According to court documents entered into evidence, he was also arrested for reckless driving. Mr. Fleet testified that the charges against him are still pending. At the time of his arrest, Mr. Fleet had not entered into the agreement which Mr. Albury had sent him. He testified that he had not done so because he had procrastinated and he wanted to keep drinking. He also testified he had not been truthful at his initial hearing when he testified that he had stopped drinking.

Mr. Fleet testified that he called Attorney Scott Smith the day after he was released from jail. Mr. Smith reported Mr. Fleet's arrest approximately one week later to Mr. Albury. While Mr. Fleet did not report his arrest to the Board of Professional Responsibility, he testified that he thought he had complied with the reporting requirement since his arrest had been reported to Mr. Smith and Mr. Albury. Mr. Fleet signed the Tennessee Lawyer's Assistance Program

Monitoring/Advocacy Agreement on May 21, 2002, approximately one month after his arrest.

Mr. Fleet testified that he had completed and was current on all of his CLE hours. He had not returned the Annual Report and \$100.00 fee to the Tennessee Commission on Continuing Legal Education, but he said that he would do so in the near future. He testified that he had not consumed any alcoholic beverages after his arrest on April 20, 2002. He regularly attends AA meetings and men's support group meetings. He has done service work through AA Life. He has attended AA conferences in Haiti, Missouri, and Oxford, Mississippi. He has undergone random urine screening for drugs and alcohol. He maintains close contact with both his AA sponsor and monitor. He testified that not only did he think the extension of his Monitoring/Advocacy Agreement from a period of two to five years was acceptable, he also thought it was a good idea.

Mr. Fleet was married, lived in Maury City and was gainfully employed. He expressed the desire to return to the practice of law and felt he was fit to do so. Evidence at both hearings indicated that he had been an extremely competent attorney when he previously practiced.

Robert Albury testified that his job required him to provide immediate and continuing assistance to lawyers, judges and law school applicants with substance abuse problems and to protect the public. He testified that he was first contacted by Mr. Fleet on January 29, 2002. He described Mr. Fleet's attitude at that time as being resistant and passive/aggressive. He provided Mr. Fleet with a Tennessee Lawyer's Assistance Program Monitoring/Advocacy Agreement which he did not return. He testified that he felt Mr. Fleet thought that signing the agreement and discontinuing the use of alcohol would have been an inconvenience on him rather than an opportunity to improve his life. Mr. Albury testified that Mr. Fleet next contacted him on April

12, 2002. Mr. Albury discovered at that time Mr. Fleet had not been working on his program for recovery.

Shortly after Mr. Fleet's arrest on April 20, 2002, Mr. Albury was contacted by Attorney Scott Smith who advised him of the arrest. Mr. Albury then notified the Board of Professional Responsibility. He testified that it was his impression that Mr. Fleet had fulfilled his duty to notify the Board of his arrest since he had done so. The procedures for reporting attorney's arrests to the Board were in somewhat of a gray area at the time and are much clearer now.

Mr. Albury testified that Mr. Fleet signed and entered into the Tennessee Lawyer's Assistance Program Monitoring/Advocacy Agreement on May 21, 2002. He testified that Mr. Fleet had been in substantial compliance with the agreement. He testified that Mr. Fleet had an excellent attitude, had been sober and was willing to help other lawyers and other professionals with their problems with alcohol.

Mr. Albury testified that alcoholism is a medical problem and does not mean that one has a bad attitude. He testified that alcoholics do bad things but are not bad people. In his expert professional opinion, Mr. Fleet had not been truthful at the initial hearing about his drinking because he was an alcoholic and his denial was based upon survival. A letter from Mr. Albury was introduced into evidence, is incorporated herein by reference and marked as Exhibit 2.

Mr. Albury felt that Mr. Fleet could resume practicing law and was no a danger to himself or the public based upon the following conditions:

- (1) That he continue to be in substantial compliance with the Monitoring/Advocacy Agreement; and
- (2) That he practice in association with another attorney or group of attorneys, or in the

alternative, maintain a relationship with a professional peer monitor for a minimum of one year and a maximum of three years.

Dr. Carolyn West Willett was a psychologist in Jackson whose primary area of expertise was the treatment of addiction. Dr. Willett testified that she initially saw Mr. Fleet in 1996. She subsequently saw him on February 15, 2002. She did not feel that he had a good attitude at that time. She saw Mr. Fleet again on May 8, 2002, and she testified that he was humble and that his attitude had completely changed. She testified that Mr. Fleet attends AA meeting in her office attended by other professionals on Monday evenings, and she monitors his AA participation. She testified that she did not feel that Mr. Fleet was a threat to himself or the public if he followed through with the recovery program.

Dr. Johnny Welch was a licensed professional counselor in Dyersburg who deals with lawyers and other professionals who have addiction problems. Dr. Welch testified that he initially saw Mr. Fleet in October of 2002 for alcohol, marital and family problems. He described him at that time as being an arrogant alcoholic who was in denial. Dr. Welch has seen Mr. Fleet on a regular basis since his arrest. He testified that Mr. Fleet now clearly has an understanding of the disease of alcoholism and how he was hurting himself and was not the victim of anyone else. He did not feel that Mr. Fleet would pose any danger to the public or the profession if he returned to the practice of law.

Scott Smith, an attorney in Jackson, testified that he initially saw Mr. Fleet in the early part of 2002 upon a referral from the Tennessee Lawyer's Assistance Program. He had little contact with him after that until his arrest in April of 2002. After his arrest, Mr. Fleet called Mr. Smith, told him that he had "screwed up" and told him about his arrest for DUI. Mr.

Smith then reported the arrest to Mr. Albury. Mr. Smith testified that he thought that Mr. Fleet had complied with his duty to report his arrest to the Board since it had been reported to Mr. Albury. Mr. Smith testified that Mr. Fleet was a completely different person now and attends regular AA meetings. He did not feel Mr. Fleet would pose any danger to the public if he returned to the practice of law.

Ronald Howie was retired and lived in Dyersburg. He testified that he had been Mr. Fleet's AA sponsor for over one year. He testified that he and Mr. Fleet attended regular AA meetings and that Mr. Fleet had maintained a sober lifestyle. He did not feel that Mr. Fleet would pose a threat to the public if he returned to the practice of law.

Barbara Fleet had been married to Mr. Fleet for a period of twelve years. They have an eleven-year-old child. She teaches music in the Crockett County School System. Ms. Fleet testified that her husband previously had serious problems with alcohol which had caused a stress on their marriage. However, she testified that since his most recent arrest for DUI, he has not had anything alcoholic to drink. She testified that her husband had reached the bottom following that arrest. She also testified that she has attended approximately thirty Al-Anon meetings and needs to attend more.

At the conclusion of proof, the Board of Professional Responsibility through its attorney recommended that Mr. Fleet should be reinstated to the practice of law if he complied with Mr. Albury's recommendations. In addition, the Board also felt that the Hearing Panel should consider the following additional recommendations:

(1) That a deadline be placed on Mr. Fleet in which to file a petition to be reinstated to practice law;

(2) That Mr. Fleet should submit his Annual Report and \$100.00 fee to the Tennessee Commission on Continuing Legal Education; and

(3) That if it is later shown that Mr. Fleet has not remained in substantial compliance with the Monitoring/Advocacy Agreement, the Board should petition the Tennessee Supreme Court to immediately suspend Mr. Fleet's license to practice law.

Mr. Fleet through his attorney agreed with the Board's recommendations in their entirety.

JUDGMENT OF THE HEARING PANEL

After having carefully considered the facts and issues in this matter, the Hearing Panel recommends that Mr. Fleet's license to practice law in the State of Tennessee be reinstated based upon the following conditions and sanctions:

(1) That Mr. Fleet remain in contact with Mr. Albury and remain in substantial compliance with the Tennessee Lawyer's Assistance Program Monitoring/Advocacy Agreement which he signed and which is marked as Exhibit 3.

(2) That Mr. Fleet show evidence that he is current on his CLE hours and submit his Annual Report and \$100.00 fee to the Tennessee Commission on Continuing Legal Education;

(3) That Mr. Fleet should submit his application to be reinstated to practice law on or before November 1, 2003;


(4) That in the event that Mr. Fleet's application for reinstatement to practice law is granted, that he either practice law in association with another attorney or a group of attorneys, or in the alternative, maintain a relationship with a professional peer monitor who is approved by Mr. Albury, for at least a one year period of time from the date that his law license is reinstated;

(5) That if it is later shown that Mr. Fleet is not in substantial compliance with the

Tennessee Lawyer's Assistance Program Monitoring/Advocacy Agreement, the Board should immediately petition the Tennessee Supreme Court to suspend his license to practice law; and

(6) That Mr. Fleet receive a private reprimand for his prior misconduct.

ENTERED:



GAYDEN DREW IV, ESQUIRE
CHAIRMAN



LAURA A. KEETON, ESQUIRE



STEPHEN M. MILAN, ESQUIRE