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BOARD OF PROFESSIONAL RESPONSIBILITY

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EXEC. SEC

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

**IN RE: WILLIAM E. GIBSON, BPR# 12636
An Attorney Licensed
To Practice Law in Tennessee
(Putnam County)**

NO. 015-2415-4-KH (30.4D)

REPORT AND RECOMMENDATION OF THE HEARING PANEL

This matter came on for hearing before a duly appointed Hearing Panel on July 23, 2015, upon a Petition for Reinstatement filed January 12, 2015, by the Petitioner, William E. Gibson. Present were William C. Rieder, Panel Chair; Adam Ford Tucker, Panel Member; Philip Andrew Wright, Jr., Panel Member; William E. Gibson, Petitioner; William W. Hunt, III and Jesse D. Joseph, counsel for Petitioner; and William C. Moody, Disciplinary Counsel. Upon the undisputed and unimpeached testimony of Petitioner and the Honorable John Turnbull, James Charles Gray, M.D., John B. Averitt, Arvis Johnson, Honorable John P. Hudson, Richard Watson, Honorable William M. Locke and Jeanette Preece, argument of counsel, evidence presented, and upon the entire record in this cause, the Panel makes these findings and conclusions.

1. The petitioner was licensed to practice law in Tennessee in 1987 and was the elected District Attorney General for the 13th Judicial District between 1990 and 2008. He was temporarily suspended from the practice of law on September 25, 2006 pursuant to Tenn. Sup.

Ct. R. 9 (hereinafter "Rule 9"), § 4.3, and his request to dissolve the temporary suspension order was denied by the Tennessee Supreme Court in August, 2007. (Judgment of the Hearing Committee, Exhibit 1 admitted into evidence in this proceeding, at p. 2).

2. In January, 2007, the Board filed a Petition for Discipline against petitioner and the formal hearing on that petition was conducted in August and November of 2008. On January 15, 2009, the Hearing Committee Panel filed its Judgment recommending that petitioner be disbarred from the practice of law, and on March 20, 2009, the Tennessee Supreme Court filed its Order of Enforcement adopting the panel's recommendation and disbaring petitioner. (Exhibit 1 and Tennessee Supreme Court March 20, 2009 Order of Enforcement, Exhibit 2, admitted into evidence in this proceeding).

3. In the Judgment of the Hearing Committee, petitioner's violations of the Rules of Professional Conduct (hereinafter "RPCs") as District Attorney General included the following: he had maintained improper personal relationships with Christopher Adams and Tina Sweat, two individuals his office was prosecuting or had prosecuted, constituting conflicts of interest in violation of RPC 1.7; he was found to have breached his duty of confidentiality to the State as his client, to have engaged in improper ex parte communications with the Court, and to have improperly communicated directly with Adams, who was represented by counsel, in violation of RPCs 1.6, 3.5 and 4.2 respectively; he did not provide diligent representation to the State as his client in violation of RPC 1.3; and he was found to have made misrepresentations to the Circuit Court by failing to disclose the nature of his personal relationship with Ms. Sweat while presenting a proposed agreed order granting her post-conviction relief, in violation of RPC 4.1. (Exhibit 1, pp. 18-19).

4. Petitioner has remained suspended and disbarred through the present pursuant to the Tennessee Supreme Court's September 25, 2006 order of temporary suspension and the Court's March 20, 2009 Order of Enforcement. On January 10, 2015, petitioner filed the instant Petition for Reinstatement with the Board, and on January 20, 2015, the Board filed its Answer to the Petition for Reinstatement. On April 9, 2015, the Hearing Panel appointed herein filed its Scheduling Order setting this matter for hearing on July 23-24, 2015.

5. Petitioner has paid the entirety of the Board's assessed costs against him of \$25,048.12 and all required costs of the Clerk of the Appellate Courts. (¶ 7 of Petition for Reinstatement; ¶ 7 of the Board's Answer to Petition for Reinstatement).

6. Petitioner has paid to the Board the required \$2,000 advance cost deposit for this reinstatement proceeding to cover anticipated costs in accordance with Rule 9, § 30.4(d)(9). (¶ 7 of Petition for Reinstatement; ¶ 7 of the Board's Answer to Petition for Reinstatement).

7. Retired Circuit Court Judge John A. Turnbull complained against the petitioner to the Board in 2006 but now acknowledges that petitioner has apologized to him more than once for violating his trust, and considers petitioner to be truly sorry. (Transcript page (hereinafter "Tr.") 24, lines (hereinafter "l") 4-8 of the July 23, 2015 Transcript of Proceedings; Tr. 25, l. 10—15, 19-21; Exhibit 3).

8. Petitioner specifically admitted in his apologies to Judge Turnbull that he had not fully advised the hearing panel in the prior disciplinary proceedings against him of the nature of his relationship with Ms. Sweat. (Tr. 25, l. 10—15).

9. Judge Turnbull, General Session Court Judge John P. Hudson of Putnam County, General Session Judge William M. Locke of Warren County, and Criminal Court Judge Gary S. McKenzie of the 13th Judicial District, all considered that petitioner has been punished enough

for his transgressions, that petitioner has been remorseful and has paid a significant price for his violations, and also believe that petitioner deserves a second chance to hold a law license. (Tr. 26, l. 17-19; Tr. 172, l. 9-19; Tr. 188, l. 9-13; Exhibit 11).

10. Judge McKenzie states that since petitioner has paid his debt to the bar and to society, he should have the opportunity for redemption (Exhibit 11). State Representative John Mark Windle, a private practitioner in Livingston who has known petitioner for more than 30 years, realizes that petitioner has now taken responsibility for his mistakes (Exhibit 13).

11. Judge Hudson of Cookeville has seen petitioner grow personally since the loss of his law license, and instead of petitioner crawling into a hole or hiding out due to his disbarment, petitioner took what was little more than a “concept”- Power of Putnam – and has transformed it into what is probably one of the most viable organizations in Putnam County. Judge Hudson has seen petitioner over the past several years to be very dedicated to a cause (Power of Putnam) and dedicated to the lives that he’s touched and the people he’s influenced (including young people and teenagers). (Tr. 172, l. 9-25; Tr. 173, l. 5-25).

12. Judge Locke believes that petitioner’s violations between 2004 and 2006 were “stupid” and “out of character”, and that petitioner has “tried to turn himself around and rectify himself”. Judge McKenzie is of the opinion that since being disbarred, petitioner “has moved forward in life in an honorable way”. (Tr. 188, l. 9-13, Tr. 189, l. 11-12; Exhibit 11).

13. Attorney Arvis Johnson, who has known petitioner for more than 35 years, now believes that petitioner has accepted not only what he did, but how wrong it was. Mr. Johnson now considers petitioner to be the person he came to know working together with petitioner as a policeman in Cookeville beginning in 1980. (Tr. 161, l. 13-25, Tr. 162, l. 1-18).

14. During his testimony, Petitioner admitted the truth of the findings of the Hearing Panel in its judgment recommending his disbarment and admitted that he violated the RPCs. (Tr. 63, l. 1-25; Tr. 64, l. 1-4). Petitioner said “it was hard to read about the things that he did.” (Tr. 64, l. 25; Tr. 65, l. 1-8).

15. Petitioner admitted that during his disciplinary hearings he was not truthful as to his romantic relationship with Ms. Tina Sweat. (Tr. 67, l. 11-19).

16. Petitioner also admitted to the Panel that he had violated his duties to the citizens of the 13th Judicial District. (Tr. 72, l. 24-25; Tr. 73, l. 1-4). Petitioner promised that he would never again “shortchange anybody that’s put their trust in me again.” (Tr. 111, l. 15-20). Petitioner swore that if his law license is reinstated, he would not repeat these violations. (Tr. 65, l. 9-20).

17. Petitioner testified that over the past years he has apologized to “everybody I can think of,” including the daughter of the victim in the Christopher Adams criminal case, members of the bar, the District Attorneys General Conferences, judges and individual District Attorneys. (Tr. 73, l. 5-25; Tr. 74, l. 1-11).

18. Prior to the two events (the Christopher Adams and Tina Sweat matters) that led to his disbarment occurred in 2004-2006, Petitioner had no disciplinary record in his previous nineteen (19) years as an attorney. Petitioner served 10 more years as a police officer in Cookeville without censure. Disciplinary Counsel presented no evidence of ethical violations after his disbarment.

19. As his disciplinary matter commenced, Petitioner consulted with the Tennessee Lawyers Assistance Program (hereinafter “TLAP”) and entered into an agreement with it. TLAP sent him to a treatment center in Arizona, required he attend AA, submit to drug/alcohol testing

and meet with a Peer Monitor. (Tr. 53 -55). Petitioner successfully complied with this agreement. (Tr. 57 l. 7-9) (Exhibit 17)

20. On October 26, 2006, Petitioner commenced therapy with Dr. John B. Averitt, a Psychologist in Cookeville, Tennessee. Petitioner has voluntarily continued to meet with Dr. Averitt up to the present day. As of the date of this Reinstatement hearing, Petitioner has attended counseling with Dr. Averitt fifty-nine times. (Tr. 136, l. 9-22) (See also Exhibit 8). Dr. Averitt testified at this Reinstatement hearing.

21. Dr. Averitt has earned two doctorates. Prior to earning these doctorates, he was a Police Officer. For the last twenty-five (25) years, he has treated police officers and impaired professionals. In this capacity, he was worked with TLAP. (Tr. 133-136) (Exhibit 18.) This Panel finds that Dr. Averitt is uniquely qualified to work with impaired attorneys, especially those who were prosecutors.

22. Dr. Averitt diagnosed Petitioner as suffering from "a vicarious trauma," which he noted is often called "compassion fatigue." (Tr.142, l. 10-16). Petitioner himself described his mental state as "burnout," "compassion fatigue" or "temporary insanity." (Tr. 109, 11-15). After a lifetime of prosecuting, Petitioner began to question whether in his criminal prosecutions he was harming people more than helping them.

23. Instead of discussing his concerns with his assistants and friends, Petitioner withdrew and retreated to his office, closing his door. (Tr. 141, l. 5-13). Petitioner also developed difficulties with interpersonal relationships. (Tr. 143, 12-18). Petitioner drank more alcohol during this period, but his drinking did not arise to a substance abuse disorder. (Tr. 142, l. 23-25.) Dr. Averitt noted that during this time, Petitioner was depressed, but his depression never arose to "a full biochemical depression" (Tr. 142, l. 2-9).

24. Dr. Averitt testified that after he lost his law license, Petitioner began to talk more openly with him. These discussions broke down Petitioner's wall of isolation. (Tr. 146, l. 1-6). Dr. Averitt also noted that Petitioner developed other supportive people in his life, with whom he "could be very open." (Tr. 148, l. 5-10) 19.

25. Dr. Averitt recommended the reinstatement of Petitioner's law license, but suggested that Petitioner practice law with another attorney or work with a practice monitor. Dr. Averitt also indicated his willingness to continue his sessions with Petitioner. (Tr. 148, l. 16-25; Tr. 149, l. 1-6; Tr. 153, l. 14-25).

26. This Panel finds that the violations that led to Petitioner's disbarment were atypical of his career and character and that, as Dr. Averitt testified, his problems arose from a form of "compassion fatigue" fueled by Petitioner's self-isolation.

27. Petitioner's CLE Compliance Chart provided by the Tennessee Commission on CLE, sets out that petitioner has completed all CLE required of actively licensed Tennessee attorneys between 2006 and the end of 2014 (Exhibit 4).

28. The May 20, 2015 email sent to petitioner from Bill G. Calhoun, Assistant Director of the Tennessee Commission on CLE, demonstrates that petitioner has established full compliance with all the CLE requirements necessary for reinstatement. (Exhibit 5).

29. Amongst the CLE courses attended by Petitioner was the Board Ethics School in 2014 and several seminars produced by TLAP. (Tr. 60, l. 1-4).

30. Petitioner has completed at least an additional 4.0 hours of general, and 1.0 hours of dual CLE credit on May 20, 2015, by completing the course "All Rise! Stand Up for Recovery" (Exhibit 6).

31. Attorney Arvis Johnson, Judge Gary McKenzie and District Attorney General Bryant C. Dunaway of the 13th Judicial District have attended several CLE seminars with petitioner over the past several years. They are of the opinion that petitioner has maintained his learning in the law since his disbarment (Tr. 164, l. 5-17; Exhibits 11 and 16).

32. Petitioner has maintained his competency and learning in the law in part by teaching at least two (2) courses per term since 2012 through the present at Nashville State Community College's Cookeville campus, in Criminal Justice – CRMJ 1010 (Intro to Criminal Justice); CRMJ 1020 (Intro to the Legal Process); CRMJ 2010 (Intro to Law Enforcement); and CRMJ 2032 (Seminar in Police Science). (Exhibit 10).

33. Petitioner has also maintained his competency and learning in the law in order to prepare for mock trials in Putnam County schools on underage drinking and for presenting multi-day courses on substance abuse. (Tr. 89 -90; Tr. 96, l. 4-17).

34. Petitioner's certification as a Drug Abuse Prevention Specialist and membership on the Prevention Specialist Certification Board have also assisted him in maintaining a familiarity with the law. (Tr. 94, l. 1-5; Tr. 95, l. 1-17).

35. Petitioner has also regularly met with several attorney friends to discuss developments in the law since his disbarment. (Tr. 102, l. 18-25).

36. Judge Turnbull has known the petitioner well for over 25 years and, in 2006, it is clear petitioner violated the Judge's trust in him relative to the handling of the Tina Sweat matter. Nine years later, however, Judge Turnbull still considers that petitioner "has high moral character". (Tr. 23, l. 19-25; Tr. 31, l. 21-24).

37. General Sessions Court Judge Hudson, another well-respected jurist who has served in that capacity since 1994 and who served under petitioner as an Assistant District

Attorney from 1990-1994, is of the opinion that petitioner's moral character is such that he would do well in the practice of law. (Tr. 175, l. 6-13).

38. General Sessions Court Judge Locke, a former District Attorney General for the 31st Judicial District from 1990-1998, and who worked in petitioner's office as an Assistant District Attorney from 1998-2008, believes petitioner has a very moral character. (Tr. 191, l. 17-20).

39. Criminal Court Judge McKenzie is also of the opinion that petitioner has the requisite moral character to possess a license to practice law. (Exhibit 11).

40. Since petitioner's disbarment, General Dunaway believes petitioner has demonstrated the character necessary to properly contribute to the bar (Exhibit 16).

41. Attorney Arvis Johnson, who served as a former Cookeville police officer along with petitioner dating back 35 years, who opened a law office with petitioner in 1988, and who worked in the Public Defender's Office in Putnam County for more than 20 years, considers that petitioner is "of the highest moral character", and that he has "never known a more honest person". (Tr. 165, l. 3; Tr. 164, l. 23-24).

42. Arvis Johnson trusts the petitioner not only as his friend, but would trust the petitioner with client matters again and would not hesitate to practice with petitioner in the future. (Tr. 156, l. 1; Tr. 157, l. 1-8).

43. Judge Locke would trust petitioner "with his life" in 2004-2005 when petitioner made his mistakes, and would do so again "today". (Tr. 192, l. 1-4).

44. Richard Watson, Program Director for the Community Anti-Drug Coalition of Rutherford County, has worked with petitioner on many collaborative anti-drug efforts over the

past 5 years, and considers petitioner to be a very trustworthy person who always comes through on anything petitioner commits himself to do. (Tr. 181, l. 16-25).

45. Judge Turnbull has had disagreements with petitioner in the past regarding the handling of cases and regarding his support of a different candidate to run for District Attorney against petitioner, but this history did not change Judge Turnbull's view of the petitioner's moral character. Similarly, Judge Hudson has noted petitioner's character was such that in 1990 petitioner never held Judge Hudson's campaign for petitioner's opponent against him. (Tr. 21, l. 10-25; Tr. 22, l. 1-22; Tr.170, l. 21-25; Tr. 171, l. 9-11).

46. Dr. Francis Otuonye, Associate Vice President for Research at Tennessee Tech University, permitted petitioner to continue to work on the grant with the US Department of Justice for funding to combat the use of methamphetamine after petitioner's disbarment, in part because of petitioner's "good moral character". (Exhibit 12).

47. Upon his resignation as District Attorney, Tennessee Tech University asked Petitioner to assist in the application with the US Department of Justice for a grant of \$460,000 over a three year period, dealing with methamphetamine addiction. The application was granted and on January 1, 2009, Petitioner became the Community Methamphetamine Prevention Coordinator for the Middle Tennessee Methamphetamine Prevention Task Force. Dr. Francis Otuonye, who supervised Petitioner's efforts, praised Petitioner in this job. (Tr. 83-85; Exhibit 12).

48. Richard Watson, the director of the Rutherford County anti-drug coalition, testified that Petitioner's reinvigoration of Putnam County's anti-drug coalition is considered by other coalitions "the standard for new coalitions to try and reach." (Tr. 180, l. 6-10). Mr. Watson

stated he was aware of Petitioner's past, but from his observation of Petitioner in his anti-drug efforts, Petitioner "deserves a second chance at doing the right thing." (Tr. 182, l. 8-19).

49. Since 2010, Petitioner has served as the executive director of Putnam County's anti-drug coalition, *The Power of Putnam*. This organization was moribund until Petitioner revived it and reinvigorated it. (Tr. 86, l. 5-25; Tr. 87, l. 1-5; Tr. 172, l. 17-25) In this capacity, he successfully lobbied the Tennessee General Assembly to repeal the Intractable Pain Treatment Act, which had resulted in an increased addiction to prescription pain medicine. (Tr. 87-88, Tr. 130; Tr. 180, l. 24-25; Tr. 181, 1-15).

50. Dr. James Charles Gray, a retired physician, testified that he had worked with Petitioner and *Power of Putnam* to amend the laws as to pain prescription medication. He attributed to Petitioner that organization's success. Dr. Gray stated that despite his disbarment, Petitioner "has the respect of a large group of concerned citizens and civic leaders and educators. Police department. The DAs... It doesn't seem to affect them now." (Tr. 131, l. 8-11).

51. Petitioner worked with the Putnam County Schools to administer a grant aimed at preventing underage drinking. Under his directions, students researched and prepared legal cases, which were "tried" before adult community leaders. (Tr. 89 -90; Tr. 173, l. 9-25; Tr. 174, l. 1-2).

52. Petitioner has also since his disbarment directed an anti-smoking campaign, which received considerable attention in the press. (Tr. 90, l. 23-25; Tr. 91, 1-23).

53. After his disbarment, Petitioner took courses at Tennessee Tech University in special education. He served as a "para-educator" in Algood Middle School in Putnam County where he was responsible for assisting two students with autism. (Tr. 93, l. 7-20).

54. As noted in a previous paragraph, Petitioner has taught two courses a semester in Police Science at Nashville State Community College. (Tr. 94, 1-16). In her letter, Becky Hull, the Director of the Cookeville campus of Nashville State Community College, stated that Petitioner is well respected on campus and praised him for his strong work ethic and professionalism. (Tr. 94, 1-16; Exhibit 10).

55. After his disbarment, Petitioner was certified as a Drug and Alcohol Prevention Specialist, level two, even though he disclosed in his application that he had been disbarred. He now serves on the board as which oversees Tennessee's Prevention Specialists and is its Secretary. (Tr. 94, l. 1-5; Tr. 95, l. 1-17).

56. Petitioner also serves on the Prevention Advisory Counsel, Tennessee Department of Mental Health Substance Abuse and is the process of qualifying to teach a multi-day course sponsored by SAMHSA, the Federal agency that administers these programs. (Tr. 96, l. 4-17).

57. Douglas Varney, the Commissioner of the Tennessee Department of Mental Health and Angela McKinney Jones, the Director of Prevention Services, stated that Petitioner has the desire and capacity to bring positive change to his community. (Exhibit 9). Robert Valerio, the Community Representative of the Bedford Health Services, also expressed in a letter admitted into evidence his great trust in the Petitioner and his confidence that Petitioner will use his reinstatement to make his community a better place. (Exhibit 14).

58. Petitioner worked as a community support staff member for Community Options in Cookeville from 2009-2013 where he supported individuals with intellectual disabilities in their homes and assisted them in obtaining a more fulfilling life. Petitioner had to help individuals in their daily life with matters such as medication administration and maintaining daily case records. According to Jeanette Preece, the Executive Director of Community Options,

petitioner was an excellent mentor and big brother for several of the clients of this agency. "He's definitely an asset to the work that I do and other agencies, nonprofits, the community as a whole." (Tr. 193-196).

59. Petitioner also serves as a board member for the Community Options Business Advisory Council (COBAC) where local community business leaders and other individuals provided funds for enrichment activities, furniture, and additional unmet needs of the clients with intellectual disabilities this agency assists. (Tr. 199, l. 25; Tr. 200, l. 1-19).

60. Petitioner's post-disbarment activity demonstrates that his Reinstatement will not be to the detriment of the legal community.

61. Petitioner testified that if reinstated he will never be a prosecutor again. "I can say unequivocally I would not go back." (Tr. 98, l. 22-24; Tr. 99, l. 5-6).

62. If reinstated, Petitioner testified he would continue his prevention work. He noted that law license will "enhance my ability to – and reach on some of the prevention things that we do". (Tr. 99, l. 9-14).

63. Petitioner also would resume his family mediation practice if reinstated. (Tr. 99, l. 15-20). Judge Turnbull testified that Petitioner "could be a real benefit to the bar because of his mediation skills." (Tr. 25, l. 1-4).

64. Petitioner would associate with attorney, Arvis Johnson, and represent a limited number of criminal defendants. (Tr. 100, l. 17-25; Tr. 120, l. 11-13). Arvis Johnson affirmed that he would practice law with Petitioner again, if he were reinstated. (Tr. 157, l. 5-7).

65. Judge Turnbull is of the opinion that the petitioner now has respect for and commitment to the administration of justice. (Tr. 28, l. 2-5).

66. Moreover, Judge Turnbull does not believe that petitioner's reinstatement would have a detrimental effect on the integrity of the bar or the administration of justice or that his past actions would forever be a cloud on the reputation of the bar. Judge Turnbull would have no hesitancy in going to the bar as a whole and to the press to explain why he supports petitioner's reinstatement. (Tr. 28, l. 6-25; Tr. 29, l. 1-4; Tr. 30, l. 3-16).

67. Judges Hudson and Locke both are of the opinion that petitioner has respect for and commitment to the administration of justice and that his reinstatement would not be detrimental to the integrity of the bar or the administration of justice. (Tr. 174, l. 3-10, 20-24; Tr. 189, l. 15-25; Tr. 190; Tr. 191, l. 1-5).

68. Attorney Arvis Johnson also believes that petitioner has respect for and commitment to the administration of justice and does not consider that his reinstatement would cause the reputation of the bar to be held in disrepute. (Tr. 162, l. 19-25; Tr. 163, l. 1-15).

69. Judge Turnbull does not believe that petitioner's reinstatement would be subversive to the public interest. (Tr. 29, l. 5-8).

70. Judges Hudson, Locke and McKenzie are all of the opinion that petitioner's reinstatement would not be subversive to the public interest. (Tr. 174, l. 11-15; Tr. 191, l. 6-9; Exhibit 11).

71. Similarly, General Dunaway and Mr. Johnson as practicing attorneys in the 13th Judicial District share in this opinion that petitioner's reinstatement would not be subversive to the public interest. (Tr. 163, l. 16-25; Tr. 164, l. 1; Exhibit 16).

72. If petitioner is reinstated to the practice of law, Judge Turnbull now believes petitioner could conform his conduct to the Rules of Professional Conduct and all other standards

established by the Tennessee Supreme Court, as well “as anybody else that’s got a license”. (Tr. 30, l. 17-23).

73. Judge Turnbull also believes that if reinstated, petitioner would find himself able to recognize and avoid potential conflicts of interest such as those involved in the Christopher Adams and Tina Sweat matters- particularly if he is kept out of the prosecution of criminal cases. (Tr. 30, l. 24-25; Tr. 31, l. 1-9).

74. With respect to petitioner’s direct communication with persons who are represented by counsel without the permission of their lawyers, Judge Turnbull believes that petitioner would “absolutely” refuse to commit that type of violation again if he is reinstated to the practice of law. (Tr. 31, l. 10-15).

75. Judge Turnbull now has “no doubt” that petitioner can protect the confidences and secrets of his clients in the future if he is reinstated. (Tr. 31, l. 16-20).

76. If he is reinstated, petitioner has committed himself to refrain from pursuing any personal relationship with any future female client that he might consider attractive. (Tr. 117, l. 24-25, Tr. 118, l. 1-20).

77. Although neither petitioner nor any other lawyer can guarantee that they would never have future ethical violations, after 10 years as a police officer and 16 years of active practice as district attorney general (26 years of governmental law enforcement service), petitioner had no problems, complaints or violations whatsoever professionally except for the two year period between 2004 and 2006 when his ethical violations occurred. Petitioner’s track record in this regard is convincing evidence that he will likely have no further problems in complying with his ethical obligations as an attorney if reinstated. (Tr. 121, l. 14-25; Tr. 122; Tr. 123, l. 1-23).

78. Since his disbarment, Petitioner has not violated any of the ethical rules or any of the confidentiality and privilege policies applicable to his work as a certified drug abuse prevention specialist, his work in the school system (special education plans), or his work with Community Options as a support staff member and mentor assisting individuals with developmental disabilities. This is further strong evidence that petitioner will likely have no further problems in complying with his ethical obligations as an attorney if reinstated. (Tr. 123, l. 2-23; Tr.194, l. 4-25; Tr. 195, l. 1-2).

CONCLUSIONS OF LAW

Criteria for Reinstatement

1. Rule 9 of the Supreme Court of Tennessee rules provides that after 5 years, a disbarred attorney is eligible for the reinstatement of his law license. *See Hughes v. Board of Professional Responsibility*, 259 S.W.3d 631 (Tenn. 2008).
2. Petitioner has demonstrated, by clear and convincing evidence, that he has satisfied all conditions set forth in the Supreme Court's January 20, 2009 Order of Enforcement disbarring him, including the payment of costs incurred by the Board in the prosecution of the preceding disciplinary proceeding, pursuant to Rule 9, § 30.4(d)(1).
3. Rule 9, § 30.4, Rules of the Supreme Court provides that reinstatement is warranted when its criteria are satisfied by clear and convincing evidence.
4. The criteria for reinstatement are that the petitioner must "(1) has the moral qualifications and (2) legal competency to be admitted to the practice of law in this state and, further, that (3) reinstatement will not be detrimental to the integrity and standing of the bar or administration of justice, or subversive to the public interest." Rule 9, § 30, Rules of the Supreme Court of Tennessee.

5. As part of his demonstration that he has the moral qualifications, Petitioner's proof must set forth the "specific facts and circumstances, which have arisen since [one's conviction] that demonstrate either rehabilitation or remorse." *Murphy v. Board of Professional Responsibility*, 924 S.W.2d 643 (Tenn. 1996) and *Hughes v. Board of Professional Responsibility*, 259 S.W.3d 631 (Tenn. 2008).

6. It is the finding and conclusion of this Panel that Petitioner has demonstrated, by clear and convincing evidence, that he has the moral qualifications required for admission to practice law within this state, pursuant to Rule 9, § 30.4(d)(1).

7. Petitioner is in compliance with the requirements of the Tennessee Continuing Legal Education Commission. He has attended the Board of Professional Responsibility's "Ethics School." He teaches the local courses at Nashville State Community College's Cookeville campus, supervises high school mock trials and gives presentations. Several judges and attorneys testified that Petitioner possesses sufficient competency and learning in the law to return to the practice of law. These activities and testimony confirm his familiarization with the law.

8. The Supreme Court has opined that the requirement for reinstated attorneys to take the written portion of the bar exam is discretionary. *See Sam Thomas Burnett v. Board of Professional Responsibility*, 100 S.W. 3d 217 (Tenn. 2003); *Board of Professional Responsibility v. William Douglas Love*, 256 S.W.3d 644 (Tenn. 2008); and *Hughes v. Board of Professional Responsibility*, 259 S.W.3d 631 (Tenn. 2008). The Bar Exam is unnecessary in the instant case.

9. It is the finding and conclusion of this Panel that Petitioner has demonstrated, by clear and convincing evidence, that he has the competency and learning in law required for admission to practice law within this state, pursuant to Rule 9, § 30.4(d)(1).

10. Rule 9, §30.4(d) (1) requires that the “resumption of the practice of law will not be detrimental to the integrity and standing of the Bar or of the administration of justice.”

11. Numerous judges, attorneys and private citizens have testified not only that the Petitioner’s reinstatement will not be detrimental, but that it would be beneficial to the Bar and the administration of justice.

12. There has been no proof that the Petitioner’s reinstatement would in any way be detrimental to the integrity and standing of the bar or the administration of justice.

13. In the afore-cited cases of *Hughes* and *Murphy*, the Supreme Court required Hearing Panels to consider the nature of the original violations in deciding whether to reinstate. These two cases involved bribery and perjury before a grand jury.

14. While the fact remains that Petitioner committed his two offenses as District Attorney, petitioner was not charged or convicted of any crimes as occurred in the *Hughes* and *Murphy* cases, and the nature of the offenses themselves was not as repugnant as the offenses committed by Mr. Hughes and former Judge Murphy.

15. Petitioner was at the time suffering from isolation and compassion fatigue. While this does not excuse Petitioner’s actions, it does explain Petitioner’s misconduct. His psychologist testified that he did not believe such misconduct will recur.

16. Moreover, there were only two transgressions by Petitioner that occurred during a brief, 2 year period of Petitioner’s otherwise long, estimable career.

17. It is the finding and conclusion of this Panel that Petitioner has demonstrated, by clear and convincing evidence, that his resumption of the practice of law within this state will not be detrimental to the integrity and standing of the bar or the administration of justice, pursuant to Rule 9, § 30.4(d)(1).

18. In the years since Petitioner's disbarment, Petitioner has been active in a number of beneficial causes that has brought him to the attention of the public. There has been no objection, criticism or adverse reaction to Petitioner's involvement in these causes.

19. Many non-lawyers have testified in person or by letter as to their esteem for Petitioner and their belief that Petitioner's reinstatement will be beneficial to the public interest.

20. It is the finding and conclusion of this Panel that Petitioner has demonstrated, by clear and convincing evidence, that his resumption of the practice of law will not be subversive to the public interest, pursuant to Rule 9, § 30.4(d)(1).

DECISION

Upon consideration of the Petition for Reinstatement, the Board's Answer, the testimony of the Petitioner's witnesses and the exhibits entered into evidence at hearing, it is the finding of this Panel that Petitioner's Petition for Reinstatement should be granted, and accordingly, it is the opinion of this panel that the Petitioner, William E. Gibson, should be reinstated to the practice of law in this state with the following conditions:

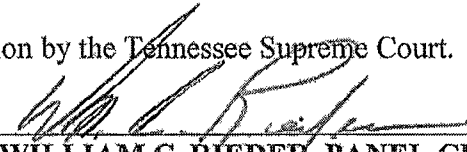
1. For so long as Petitioner is engaged in the practice of law, a practice monitor be assigned to assist him in avoiding ethical dilemmas of the type he encountered which resulted in his disbarment;

2. That Petitioner be required to attend the Tennessee Law Institute Annual Review Seminar each year for the next five (5) years in addition to any other Continuing Legal Education Seminar he may choose to attend;

3. For so long as Petitioner is engaged in the practice of law he shall be required to continue his counseling sessions with Dr. John B. Averitt or another licensed mental health

professional on at least a quarterly basis and present proof of his attendance to the Board of Professional Responsibility;

4. Approval of this decision by the Tennessee Supreme Court.


WILLIAM C. RIEDER, PANEL CHAIR


ADAM FORD TUCKER, PANEL MEMBER

by Wm. C. Rieder by permission


PHILIP ANDREW WRIGHT, JR., PANEL MEMBER

by Wm. C. Rieder by permission

CERTIFICATE OF SERVICE


I hereby certify that a true and exact copy of the foregoing *Report and Recommendation* has been mailed postage prepaid to:

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Mr. Philip Andrew Wright, Jr., Esquire
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Ms. Rita Webb
Executive Secretary
Board of Professional Responsibility
10 Cadillac Drive, Suite 220
Brentwood, TN 37027

this 21st day of November, 2015.


WILLIAM C. RIEDER