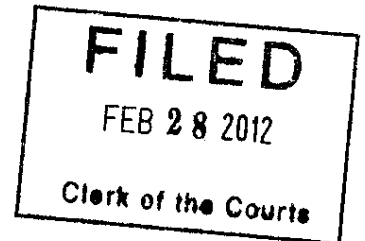


**IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE**

IN RE JOHN DOUGLAS GODBEE, BPR # 006234
An Attorney Licensed to Practice Law in Tennessee
(Hawkins County)

**No. M2012-00130-SC-BPR-BP
BOPR No. 2012-2100-1-SG(4.3)**



ORDER

On January 24, 2012, the Court entered an Order of Temporary Suspension suspending James Douglas Godbee pursuant to Tenn. Sup. Ct. R. 9, § 4.3, due to Mr. Godbee's noncompliance with his Tennessee Lawyer's Assistance Program (TLAP) Monitoring Agreement. On January 30, 2012, Mr. Godbee filed a Petition for Dissolution of Temporary Order of Suspension. On February 2, 2012, this Court entered an Order requiring the Board of Professional Responsibility to set a hearing and submit its Report on Mr. Godbee's Petition for Dissolution.

On February 23, 2012, a hearing was conducted before a three-member Hearing Panel of the Board of Professional Responsibility. On February 24, 2012, the Hearing Panel entered its Report and Recommendation that Mr. Godbee's temporary suspension be dissolved subject to Mr. Godbee's full compliance with his TLAP Monitoring Agreement. A copy of the Report and Recommendation is attached hereto and incorporated herein by reference.

It is, therefore, ordered, adjudged and decreed by the Court:

1. The temporary suspension imposed on James Douglas Godbee by Order of Temporary Suspension filed January 24, 2012, is hereby dissolved and James Douglas Godbee is reinstated to the practice of law subject to Mr. Godbee's full compliance with his monitoring agreement.

2. Mr. Godbee shall reimburse and pay to the Board of Professional Responsibility the costs and expenses incurred herein in the amount of \$800.00, within ninety (90) days, for all of which execution shall issue, if necessary.

FOR THE COURT:



WILLIAM C. KOCH, JR., JUSTICE

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

IN RE: JOHN DOUGLAS GODBEE, BPR NO. 006234
An Attorney Licensed to Practice Law in Tennessee
(Hawkins County)

NO. M2012-00130-SC-BPR-BP
BOPR NO. 2012-2100-1-SG(4.3)

REPORT AND RECOMMENDATION

On February 23, 2012, a Hearing Panel of Eleanor Yoakum, a member of the Board of Professional Responsibility, Ruth Ellis, Hearing Panel member and Wade V. Davies, a member of the Board of Professional Responsibility heard testimony and argument on Mr. Godbee's Petition for Dissolution of Order of Temporary Suspension, filed January 30, 2012. Mr. Godbee was present and represented by Paul Whetstone. Sandy Garrett appeared as Disciplinary Counsel. Based on the testimony presented at the hearing, the panel recommends that the Supreme Court of Tennessee dissolve the order of temporary suspension upon the condition that Mr. Godbee remain in *full* compliance with his current monitoring agreement.

Procedural Background

On January 19, 2012, the Board of Professional Responsibility of the Supreme Court of Tennessee, by and through Disciplinary Counsel, filed a Petition for the Temporary Suspension of John Douglas Godbee from the practice of law pursuant to Tennessee Supreme Court Rule 9, Section 4.3. The petition was authorized by the Chair of the Board of Professional Responsibility and was supported by the affidavit of Ted Rice, Deputy Director of Tennessee Lawyers Assistance Program (TLAP).

On January 24, 2012, the Supreme Court of Tennessee entered an Order of Temporary Suspension upon a finding that Mr. Godbee had failed to substantially comply with his TLAP Monitoring Agreement. This Court's Order provided that Mr. Godbee could make application for dissolution or modification of the Order as provided in Tennessee Supreme Court Rule 9, Section 4.3.

On January 30, 2012, Mr. Godbee's filed a Petition for Dissolution of Order of Temporary Suspension. On February 2, 2012, this Court entered an Order directing the Board of Professional Responsibility to hold a hearing on Mr. Godbee's petition.

The hearing was held on February 23, 2012 at the City-County Building in Knoxville, Tennessee. The scope of the hearing was very narrow: under Section 4.3, whether Mr. Godbee had met his burden of showing good cause for the dissolution of the Order of Temporary Suspension.

Testimony of Ted Rice

Mr. Godbee first called Ted Rice, the Deputy Director of TLAP. Mr. Rice testified by phone.

Mr. Rice's affidavit dated January 17, 2012 provided the basis for Disciplinary Counsel's initial petition and this Court's determination that Mr. Godbee was in substantial non-compliance with his TLAP Monitoring Agreement.

At the hearing, Mr. Rice confirmed that Mr. Godbee does not have substance abuse issues currently but was under a TLAP Monitoring Agreement based upon a mood-disorder.

On October 4, 2011, Mr. Godbee entered into a three-year Monitoring Agreement with the Tennessee Lawyers Assistance Program.

At the hearing Mr. Rice acknowledged that Mr. Godbee had been in compliance with a number of requirements of the October 4, 2011 Monitoring Agreement. He was compliant in completing his required clinical assessment and was receiving the recommended psychological and psychiatric treatment. However, Mr. Godbee was non-compliant in several matters: (1) He did not comply with the requirement that he call in daily to TLAP; (2) He did not regularly attend the necessary Lawyers in Recovery meetings; (3) He had not complied with the communication requirements with his peer monitor; and (4) He did not provide the necessary documentation of his activities.

Mr. Rice testified that he was not able to get Mr. Godbee into compliance and felt that he had to discharge Mr. Godbee from the Monitoring Agreement.

At the hearing, Mr. Godbee made the point through counsel that some of the requirements Mr. Godbee failed to meet are addressed primarily with active substance abuse issues and that the agreement provides that Mr. Godbee is being treated for an axis mood 1 disorder and not chemical dependency. Mr. Rice agreed with that and stated that screening is necessary with mood disorders to make sure that there are no substances being used that could interfere with their medication.

Mr. Rice testified that Mr. Godbee is now on an adjusted regimen of medications.

On January 24, 2012, TLAP accepted Mr. Godbee back into the program and Mr. Godbee executed another Monitoring Agreement with very similar requirements.

Mr. Rice made it clear that Mr. Godbee has been complying to the letter with the January 24, 2012 Monitoring Agreement. Mr. Rice stated that he believes that Mr. Godbee is taking the new agreement very seriously. Mr. Rice has consulted with Mr. Godbee's peer monitor and Mr.

Godbee was compliant in the month of January. He is also attending the necessary Lawyers in Recovery meetings.

On cross-examination, Mr. Rice opined that although Mr. Godbee is in compliance with his current TLAP agreement, Mr. Rice would like to see Mr. Godbee build some more time in monitoring before resuming to a full-time practice. In fact on February 22, 2012, Mr. Rice suggested that Mr. Godbee attend a program of residential treatment. Mr. Rice stated that in his opinion he would like to see four to six months before the clinical data would be sufficient to determine whether Mr. Godbee should return to active practice.

On re-direct examination, Mr. Rice stated that based on this Court's Order, he was aware that Mr. Godbee has been practicing and representing his existing clients since the Order of Temporary Suspension. He has received no information regarding any problems relating to the manner in which Mr. Godbee has represented his clients or practiced law. Mr. Rice stated that many of the concerns that he has stem from a January 27, 2012 letter that Mr. Godbee had written to him. The letter describes a number of issues that Mr. Godbee has suffered from but the letter does not specify when Mr. Godbee had those symptoms.

Mr. Rice's recommendations were not made out of concern that Mr. Godbee is a threat to the public.

Mr. Godbee currently has a strong support team in place. He has the support of TLAP. He is participating in Lawyers in Recovery. In this case he has the strong personal and professional support of his attorney. He has both psychological counseling and psychiatric care including medication. He also has a strong peer monitor. Mr. Rice stressed that the daily call-in component is very important especially for someone suffering a major depressive disorder.

Francis X. Santore

Mr. Santore testified on Mr. Godbee's behalf. Mr. Santore serves as Mr. Godbee's peer monitor. Mr. Santore stated that as peer monitor, his primary role is to insure that Mr. Godbee complies with his contract. He also speaks to him about day-to-day problems. Mr. Santore knows Mr. Godbee very well and has known him for approximately 26 years. They have been adversaries in many proceedings over the years.

Mr. Santore stated that he had no problem turning Mr. Godbee in if Mr. Godbee failed to comply with his monitoring contract. Mr. Santore said that he had no hesitation in doing this because he believes in the effectiveness of the TLAP program.

Mr. Santore in fact had been Mr. Godbee's peer monitor under the previous contract and reported him for not following its requirements. In December of 2011, Mr. Santore had a very direct meeting with Mr. Godbee and assisted him in beginning to fulfill the requirements of his monitoring agreement.

John Douglas Godbee

Mr. Godbee testified that he is fifty-eight years old. He suffers from Major Depressive Disorder. He stated that he accepts full responsibility for failing to comply with the initial agreement. In October, when he failed to comply, he had just undergone surgery, and his father had died. He stated that even when he was non-compliant with the reporting requirements he was still in treatment. When asked about the concerns that Mr. Rice had about his letter, Mr. Godbee stated that he described a series of events and experiences he'd had, and that the symptoms discussed by Mr. Rice occurred months ago and not recently. He stated that his medication management and counseling have helped him. Mr. Godbee stated that his work is extremely important to him and that he has an active caseload of 77 clients, many of them

indigent clients in General Sessions Court. Mr. Godbee stated that he was concerned that attending residential treatment at this time would not help him because he is doing well, and it would harm him to have to be concerned about not being able to assist his clients. Mr. Godbee stated that he has an active treatment regimen. He is treated by an internist, psychiatrist and counselor. He also begins the day with online twelve step programs, which are beyond what is required by his monitoring agreement.

Positions of the Parties

Through counsel, Mr. Godbee requested that the temporary suspension be lifted. He submitted that he has shown good cause through the new monitoring agreement and Mr. Godbee's ability to maintain his practice.

Disciplinary counsel opposed lifting the suspension at this time based upon Mr. Rice's statement regarding wanting to see four to six months of progress.

Recommendation of the Panel¹

After careful deliberation, the panel recommends that this Court dissolve the order of temporary suspension conditioned upon full compliance, rather than substantial compliance, with the January 24, 2012, monitoring agreement.

The panel gave careful consideration to Mr. Rice's recommendation, but it is our finding that on the narrow issue presented here Mr. Godbee has shown good cause for the temporary suspension to be lifted. The primary reasons for this finding are that Mr. Godbee is now in compliance with his monitoring agreement; he is taking his responsibilities seriously; and he has an exceptionally good support system through TLAP, his peer monitor, and his treatment

¹ Mindful of Section 4.3 and the requirement that the panel should submit its report and recommendation with the utmost speed consistent with due process, the panel submits this report the day after the hearing.

providers. The panel members are not qualified to express an opinion on which course of ongoing treatment is best, but find that Mr. Godbee is committed and is complying with the contract put in place by TLAP.²

The panel further finds that his peer monitor is committed to ensuring that Mr. Godbee comply with his monitoring agreement and will not hesitate to report any noncompliance.

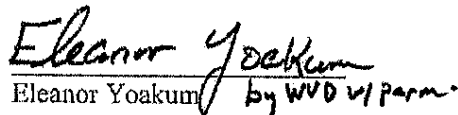
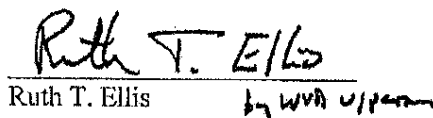
The panel limited the hearing solely to the issues presented under Section 4.3.

The panel recommends that the Court dissolve the order of temporary suspension but impose a condition of full compliance with the monitoring agreement, rather than substantial compliance.

Respectfully submitted,



Wade V. Davies


Eleanor Yoakum by WVD v/p arm.
Ruth T. Ellis by WVD v/p arm

² The panel expressed the opinion to Mr. Godbee that he should reduce his caseload.