

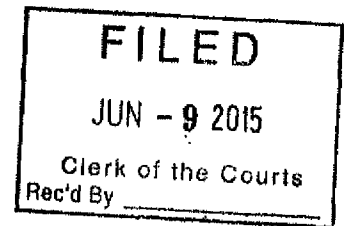
IN THE SUPREME COURT OF TENNESSEE  
AT NASHVILLE

**IN RE: WILLIAM C. GOSNELL, BPR #4369**  
An Attorney Licensed to Practice Law in Tennessee  
(Shelby County)

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No. **M2014-02523-SC-BAR-BP**  
BOPR No. 2014-2408-9-AW(27)

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**ORDER**

On December 23, 2014, this Court entered an Order pursuant to Tenn. Sup. Ct. R. 9, § 27.4, immediately transferring William C. Gosnell to disability inactive status and referring the matter to a hearing panel for a formal hearing to determine Mr. Gosnell's capacity to practice law and respond to or defend against a disciplinary complaint.

On April 29, 2015, a formal hearing was held before a three-member hearing panel. On May 29, 2015, the panel entered its Memorandum Opinion and Order of the Hearing Panel finding Mr. Gosnell failed to demonstrate he suffers from a disability which makes it impossible for him to respond to or defend against the underlying disciplinary complaint and recommending the Order of December 23, 2014, placing Mr. Gosnell on disability inactive status be dissolved. A copy of the Memorandum Opinion and Order of the Hearing Panel is attached hereto and incorporated herein by reference.

IT IS THEREFORE, CONSIDERED, ORDERED, ADJUDGED AND DECREED BY THE COURT THAT:

1. The Memorandum Opinion and Order of the Hearing Panel is approved as the Court's Order.
2. The Order of this Court entered December 23, 2014, transferring Mr. Gosnell to disability inactive status is hereby dissolved, and William C. Gosnell is returned to active status.

PER CURIAM

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

FILED

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BOARD OF PROFESSIONAL  
RESPONSIBILITY

*DeWitt*

IN RE: WILLIAM C. GOSNELL,  
Respondent, BPR No. 4369,  
An Attorney Licensed to  
Practice Law in Tennessee  
(Shelby County)

DOCKET NO. 2014-2408-9-AW(27)

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MEMORANDUM OPINION AND ORDER OF THE HEARING PANEL

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This matter came on for hearing on April 29, 2015, pursuant to Tenn. Sup. Ct. R. 9, § 27.4 (a), and an Order of the Supreme Court of Tennessee dated December 23, 2014, directing the appointment of a hearing panel to determine Mr. Gosnell's capacity to respond to or defend against the disciplinary complaint currently pending against him. The Hearing Panel was duly appointed on January 28, 2015, and notice of the appointment of the Panel was filed on January 29, 2015. Mr. Gosnell appeared pro se, and the Board of Professional Responsibility (Board) was represented by A. Russell Willis.

At the final hearing, Mr. Gosnell testified regarding the current state of his health and that he had been experiencing serious health issues since August of 2013. Mr. Gosnell opined that as a result of his health he was physically unable to continue an active, full-time law practice. In support of his testimony Mr. Gosnell introduced into evidence certain medical records of Dr. Samaha and relied upon a letter from Dr. Finn dated December 5, 2014, previously submitted with the Notice of Contention of Disability. In response to Mr. Gosnell's proof, the Board introduced certain pleadings authored by Mr. Gosnell and filed during 2014 in the underlying disciplinary action. In response to questions from counsel for the Board, Mr. Gosnell testified he had defended himself in the underlying disciplinary action and was defending himself in the present matter.

Tenn. Sup. Ct. R. 9, § 27.4 (a) (2014) provides, in pertinent part, that if a respondent attorney contends he is suffering from a disability by reason of mental or physical infirmity or

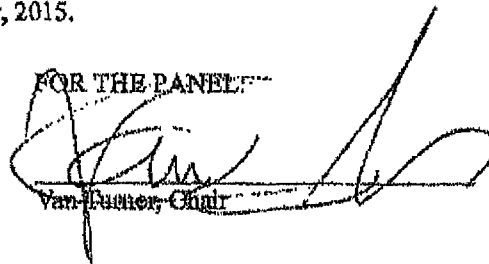
Exhibit A

illness, which disability makes it impossible for the respondent attorney to respond to or defend against the disciplinary complaint, such contention shall place at issue the respondent's capacity to continue the practice of law. At the formal hearing, the Hearing Panel shall determine the respondent attorney's capacity to continue the practice of law and to respond to or defend against the disciplinary complaint. Rule 9, § 27.4 (a) makes clear that the respondent attorney, Mr. Gosnell, has the burden of proof before the Panel and the burden is by a preponderance of the evidence.

Although Mr. Gosnell presented proof of the medical conditions under which he suffers, he did not present any medical evidence demonstrating his medical conditions made it impossible for him to respond to or defend against the underlying disciplinary complaint. In fact, the evidence in the record demonstrates Mr. Gosnell did respond to and defend against the underlying disciplinary complaint during the same time he experienced the health issues he testified about. Mr. Gosnell represented himself in the underlying disciplinary action and filed pleadings with the hearing panel and in his appeal to the Circuit Court. While Mr. Gosnell may not be physically capable of an active, full-time law practice, the evidence before the Panel is insufficient to conclude Mr. Gosnell cannot respond to or defend against the underlying disciplinary complaint. The burden of proof was Mr. Gosnell's, and he failed to carry it.

The Hearing Panel finds by a preponderance of the evidence that Mr. Gosnell failed to demonstrate he suffers from a disability which makes it impossible for him to respond to or defend against the underlying disciplinary complaint. The Hearing Panel recommends to the Supreme Court that the Order of December 23, 2014, placing Mr. Gosnell on disability inactive status indefinitely be dissolved, and Mr. Gosnell's license to practice law be placed in active status.

It is so ordered this 29<sup>th</sup> day of May, 2015.

FOR THE PANEL  
  
Van Danner, Chair