



**BOARD OF PROFESSIONAL RESPONSIBILITY
OF THE
SUPREME COURT OF TENNESSEE**

10 CADILLAC DRIVE, SUITE 220
BRENTWOOD, TENNESSEE 37027
TELEPHONE: (615) 361-7500
(800) 486-5714
FAX: (615) 367-2480
E-MAIL: ethics@tbpr.org
Website: www.tbpr.org

RELEASE OF INFORMATION
RE: JOHN EDWARD HERBISON, BPR #12659
CONTACT: A. RUSSELL WILLIS
BOARD OF PROFESSIONAL RESPONSIBILITY
615-361-7500

February 3, 2016

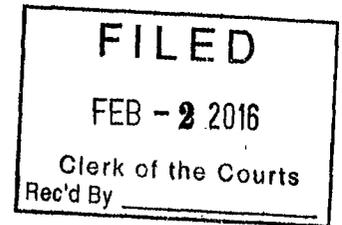
MONTGOMERY COUNTY LAWYER SUSPENDED

On February 2, 2016, John Edward Herbison, of Clarksville, Tennessee, was suspended from the practice of law by Order of the Tennessee Supreme Court for two (2) years, with sixty (60) days to be served as an active suspension and indefinitely thereafter until restitution, in the amount of \$7,500, is paid to his former clients. The suspension order is effective upon entry. As a condition of probation, Mr. Herbison shall engage a practice monitor at his expense. Mr. Herbison must pay the Board's costs and expenses and court costs within ninety days of the entry of the Order of Enforcement.

Mr. Herbison accepted a non-refundable fee of \$7,500 and thereafter failed to prepare an application for clemency and reasonably communicate with his clients. Mr. Herbison misled his clients to believe the application for clemency was being prepared and would be delivered to the clients. Upon learning that the application had not been prepared, the clients terminated Mr. Herbison and requested a refund. Mr. Herbison failed to refund the unearned fee.

Mr. Herbison admitted his conduct violated Rules of Professional Conduct 1.3 (diligence), 1.4 (communication), 1.5 (fees), 1.16 (declining or terminating representation) and 8.4(a) (misconduct).

Mr. Herbison must comply with the requirements of Tennessee Supreme Court Rule 9, Sections 28 and 30, regarding the obligations and responsibilities of suspended attorneys.



IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

IN RE: JOHN EDWARD HERBISON, BPR #12659
An Attorney Licensed to Practice Law in Tennessee
(Montgomery County)

No. M2016-00196-SC-BAR-BP
BOPR No. 2014-2395-6-AW

ORDER OF ENFORCEMENT

This matter is before the Court upon a Petition for Discipline filed against John Edward Herbison on November 17, 2014; upon Mr. Herbison's Answer filed February 4, 2015; upon the Conditional Guilty Plea filed December 8, 2015; upon the Hearing Panel's Order Recommending Approval of Conditional Guilty Plea entered December 9, 2015; upon consideration and approval by the Board of Professional Responsibility on January 8, 2016; and upon the entire record in this cause.

From all of which the Court accepts the recommendation of the Hearing Panel and adopts the Hearing Panel's Order Recommending Approval of Conditional Guilty Plea as the Court's Order.

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

1. Pursuant to Tenn. Sup. Ct. R. 9, § 12.2 (2014), John Edward Herbison's license to practice law is suspended for two (2) years with sixty (60) days to be served as an active suspension and indefinitely thereafter until restitution in the amount of \$7,500.00 is paid, and an Order reinstating Mr. Herbison is entered. Following the active suspension period, and subject to Tenn. Sup. Ct. R. 9, § 14 (2014), Mr. Herbison shall serve the remainder of his two (2) year suspension on probation subject to compliance with the following conditions:
 - (a) Within five (5) business days of the entry of the suspension order, Mr. Herbison shall contact Tennessee Lawyers Assistance Program (TLAP) for an evaluation and shall comply with any monitoring agreement recommended by TLAP.

(b) Pursuant to Tenn. Sup. Ct. R. 9, §§ 12.8 and 12.9 (2014), Mr. Herbison, at his expense, shall engage a practice monitor, approved by the Board, who shall meet face-to-face at least monthly and speak by telephone at least weekly with Respondent to review his case files and office management procedures. The practice monitor shall provide the Board with a monthly written report which shall include at a minimum (1) assessment of the timeliness and adequacy of Mr. Herbison's communications with clients; (2) assessment of Mr. Herbison's basic office practices to ensure case deadlines are being scheduled and timely met; (3) review of all written fee agreements and assessment of Mr. Herbison's compliance with the terms and conditions of the fee agreement; (4) mentoring of Mr. Herbison as needed in the art of client management; and (5) recommendations and implementation of changes in Mr. Herbison's office practices to address any practice deficiencies.

(c) Mr. Herbison shall not, during the period of suspension and probation, incur any new complaints of misconduct that relate to conduct occurring during the period of suspension and probation and result in a recommendation by the Board that discipline be imposed. In the event that Mr. Herbison violates or otherwise fails to meet any condition of the suspension or probation, Disciplinary Counsel shall be authorized to file a petition to revoke Mr. Herbison's probation, and upon a finding that revocation is warranted, Mr. Herbison shall serve the previously deferred period of suspension.

2. Pursuant to Tenn. Sup. Ct. R. 9, § 12.7 (2014), and as a condition precedent to any reinstatement, Mr. Herbison shall make restitution to Mr. and Mrs. Anthony Grayer in the amount of \$7,500.00 and shall furnish to the Board of Professional Responsibility proof of restitution. In the event restitution is made by the Tennessee Lawyer's Fund for Client Protection (TLFCP), Mr. Herbison shall reimburse TLFCP in the same amount.
3. In the event Mr. Herbison fails to meet any condition of probation, the probation may be revoked pursuant to Tenn. Sup. Ct. R. 9, § 14.2 (2014).
4. Prior to seeking reinstatement, Mr. Herbison must meet all CLE requirements; have remitted all outstanding registration fees and outstanding professional privilege taxes, including those due from the date of this suspension until the date of reinstatement; and have remitted all court costs and Board costs in this matter.

5. Pursuant to Tenn. Sup. Ct. R. 9, § 28.1 (2014), this Order shall be effective upon entry.
6. Pursuant to Tenn. Sup. Ct. R. 9, § 31.3(d) (2014), Mr. Herbison, in accordance with the Conditional Guilty Plea, shall pay to the Board of Professional Responsibility the expenses and costs of this matter in the amount of \$871.34 and shall pay to the Clerk of this Court the costs incurred herein, within ninety (90) days of the entry of this Order, for all of which execution may issue if necessary.
7. The Board of Professional Responsibility shall cause notice of this discipline to be published as required by Tenn. Sup. Ct. R. 9, § 28.11 (2014).

PER CURIAM