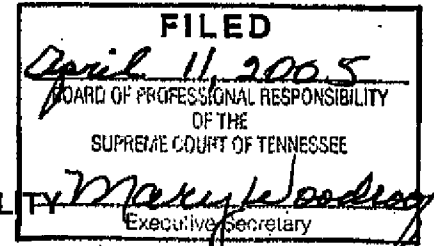


IN THE IX DISCIPLINARY DISTRICT  
OF THE  
BOARD OF PROFESSIONAL RESPONSIBILITY  
OF THE  
SUPREME COURT OF TENNESSEE



IN RE: DAVID J. JAMES, JR., BOPR #11006, DOCKET NO. 2004-1474-9-JJ  
Respondent, an attorney Licensed  
to Practice Law in Tennessee  
(Shelby County)

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JUDGMENT OF THE HEARING COMMITTEE PANEL

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This cause came to be heard by the Hearing Committee Panel of the Board of Professional Responsibility of the Supreme Court of Tennessee on March 30, 2005. Also present was Jesse D. Joseph, Disciplinary Counsel, representing the Board of Professional Responsibility. The cause was heard pursuant to Rule 9 of the Tennessee Supreme Court Rules. This Hearing Committee Panel, Vivian Ray Donelson, Chair, William B. Walk, and Tameka Turner-Perry, makes the following findings of fact and submits its judgment in this cause as follows:

STATEMENT OF THE CASE

1. In May of 2003, the Respondent submitted to the Tennessee Board of Professional Responsibility (hereinafter "the Board") a request to transfer to inactive status. His law license was transferred to inactive status pursuant to Rule 9, §20 of the Tennessee Supreme Court Rules (hereinafter "Tenn. R. Sup. Ct.")
2. In February of 2004, the Board's Consumer Assistance Program (hereinafter "CAP Program") received a report of alleged unethical conduct against Respondent from Betty Ann Davis of Memphis, Shelby County, Tennessee. Ms. Davis contends that she paid the Respondent \$250.00 in attorney fees in 2002 for the Respondent to add a creditor to her prior Chapter 7 Bankruptcy. The Respondent acknowledged receipt of the \$250.00 on September 6, 2002. The Respondent did not file the requested Motion to Reopen Ms. Davis' bankruptcy matter but kept the \$250.00 paid to him. The CAP Program forwarded a request dated March 4, 2004, to the Respondent seeking his response to Ms. Davis' grievance. The Respondent did not respond to the CAP Program. Due to the lack of response, the Board opened a file for Disciplinary Counsel to investigate the matter and forwarded a Notice and Summary of Complaint to the Respondent. The Board requested a Response within ten (10) days of receipt of the same. No response was submitted.
3. Subsequent Notice letters dated April 13, April 27, and May 19, 2004, were forwarded to the Respondent from the Board. All of the Notice letters advised the

Respondent that his initial response was overdue and that his continued dilatoriness would likely result in the Board filing a Petition with the Tennessee Supreme Court seeking temporary suspension of his law license pursuant to Rule 9, § 4.3 of the Tenn. R. Sup. Ct. With permission from the Board Chairman, the Board filed a Petition against the Respondent seeking his temporary suspension from the practice of law due to his failure to respond to the Disciplinary Complaint. The Petition was filed June 10, 2004, and the Tennessee Supreme Court's Order of Temporary Suspension was filed June 16, 2004.

4. The Respondent continued to evade service of process and continued to refuse to claim properly addressed mail. On November 2, 2004, the Board filed a Petition for Discipline. A copy of the Petition was served upon the Respondent by certified mail on November 4, 2004. The return receipt indicates that the Respondent personally signed for the correspondence. The Respondent did not submit a response to the Petition.
5. The Board filed a Motion for Default Judgment on February 3, 2005, because of the Respondent's failure to answer the Petition for Discipline within the required time.
6. The Motion for Default Judgment was set for hearing on March 30, 2005. Neither the Respondent nor a representative appeared on his behalf for the hearing. Disciplinary Counsel, Jesse Joseph, appeared on behalf of the Board and presented the Board's position with regard to the Respondent's failure to respond to the Board's Complaint and Motion for Default. After a recess, this Hearing Panel entered a Default Judgment as to the allegations contained in the Petition for Discipline. Pursuant to Rule 9, §8.2 of the Tenn. R. Sup. Ct., the charges contained in the Petition for Discipline are deemed admitted.
7. On March 30, 2005, after conducting a hearing on the Board's Motion for Default Judgment and rendering a decision regarding the same, the Panel considered, in the absence of Disciplinary Counsel and the Respondent, appropriate sanctions.

#### **FINDING OF AGGRAVATING AND MITIGATING CIRCUMSTANCES**

1. The Hearing Panel finds the Respondent's two prior Private Informal Admonitions to be aggravating circumstances.
2. The Hearing Panel finds the Respondent's temporary suspension filed June 16, 2004, for his failure to respond to the Disciplinary Complaint to be an aggravating circumstance.
3. The Hearing Panel finds the Respondent's bad faith obstruction of this disciplinary proceeding to be an aggravating circumstance.
4. The Hearing Panel finds the Respondent's indifference to make restitution to Ms. Davis to be an aggravating circumstance.

5. The Hearing Panel finds no mitigating circumstances.
6. The Hearing Panel notes that the Respondent has substantial experience in the practice of law, having been licensed in Tennessee since 1984.

**JUDGMENT**

**IT IS THEREFORE ORDERED** by the Hearing Panel as follows:

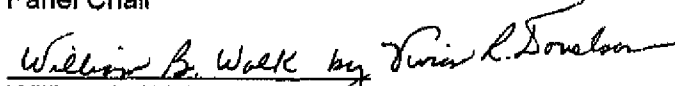
1. That the Respondent, David D. James, Jr., be suspended from the practice of law for a period of one year effective from the date of the Tennessee Supreme Court's Order incorporating this Judgment.
2. That, pursuant to Rule 9, §24.3 of the Tenn. R. Sup. Ct., the Respondent shall reimburse the Board the expenses and costs of this matter for which execution shall issue, if necessary.
3. That reinstatement of the Respondent's law license is conditioned upon the following:
  - a. The filing of a Petition for Reinstatement as required by Rule 9, §19 of the Tenn. R. Sup. Ct.;
  - b. Obtaining dissolution of the June 16, 2004, Order of Suspension rendered by the Tennessee Supreme Court; and
  - c. Obtaining a return to active status by the Tennessee Supreme Court, pursuant to Rule 9, §20.9 of the Tenn. R. Sup. Ct., if the Respondent's law license remains inactive for five (5) years.

This 11<sup>th</sup> day of April 2005.

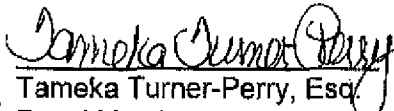
**THE HEARING COMMITTEE PANEL:**

  
Vivian Ray Donaldson, Esq.  
Panel Chair

APPROVED FOR ENTRY:

  
William B. Walk, Esq.  
Panel Member

Jesse D. Joseph, BOPR #10509  
Disciplinary Counsel  
1101 Kermit Drive, Suite 730  
Nashville, TN 37217  
615-361-7500

  
Tameka Turner-Perry, Esq.  
Panel Member