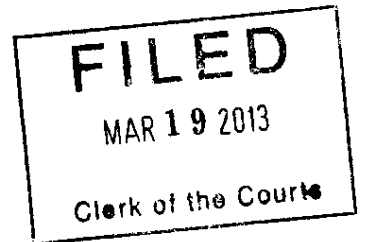


IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

JAMES D. McWILLIAMS, BPR#24152

An Attorney Licensed in Tennessee
(Davidson County)



NO. M2013-00701-SC-OT-BP

BOPR NO. 2013-2195-0-KB(14)

ORDER OF ENFORCEMENT

This matter is before the Court pursuant to Tenn. Sup. Ct. R. 9, § 14, upon a certificate filed by Disciplinary Counsel for the Board of Professional Responsibility consisting of a certified copy of the judgment in a criminal case, State of Tennessee vs. James D. McWilliams, (attached as Exhibit A) filed in the Criminal Court of Davidson County, Tennessee, on November 29, 2012, demonstrating that James D. McWilliams, a Tennessee attorney, pled guilty to a serious crime, i.e., Child Abuse of a child less than eight (8) years of age in violation of Tenn. Code Ann. § 39-15-401(a).

It is therefore, **ORDERED, ADJUDGED** and **DECREED** by the Court that:

1. James D. McWilliams is suspended from the practice of law on this date pending further orders of this Court, pursuant to Tenn. Sup. Ct. R. 9, § 14.
2. This matter shall be referred to the Board of Professional Responsibility for the institution of a formal proceeding in which the sole issue to be determined shall be the extent of the final discipline to be imposed as a result of Mr. McWilliam's plea of guilt.
3. James D. McWilliams shall fully comply with the provisions of Tenn. Sup. Ct. R. 9, § 18 concerning disbarred or suspended attorneys.
4. The Board of Professional Responsibility shall cause notice of this suspension to be published as required by Tenn. Sup. Ct. R. 9, § 18.10.

FOR THE COURT:

Cornelia A. Clark
CORNELIA A. CLARK, JUSTICE

IN THE CRIMINAL ~~COURT~~ COURT OF DAVIDSON COUNTY, TENNESSEE

Case Number: 2012-B-1399 Count #: 1 Counsel for the State: R. McCarver
 Judicial District: 20th Judicial Division: VI Counsel for the Defendant: L. Getz
 State of Tennessee Retained Private Atty Appt Pub Def Appt
 vs. Counsel Waived Pro Se
 Defendant: James D. McWilliams, Sr. Alias: _____
 Date of Birth: 3/24/71 Sex: M Race: B SSN: _____
 Indictment Filing Date: _____ State Control # _____ State ID # _____
 County Offender ID # (if applicable) _____

ORDER OF DEFERRAL (JUDICIAL DIVERSION) Original Amended Corrected

On the 29th day of November, 2012, the defendant:

<input checked="" type="checkbox"/> Pled Guilty <input type="checkbox"/> Pled Nolo Contendere Was Found Guilty By: <u>ALFORD</u> <input type="checkbox"/> Jury Verdict <u>PLA</u> <input type="checkbox"/> Bench Trial	Indictment - Class (circle one) 1 st A B C <u>D</u> E <input checked="" type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor Indicted Offense Name AND TCA #: <u>Child Abuse</u> Amended Offense Name AND TCA #: _____ Offense Date: <u>8/4/11</u> County of Offense: <u>DAVIDSON</u> Deferred Offense Name AND TCA #: <u>Child Abuse</u> Deferred Offense: Class (circle one) A B C <u>D</u> E <input checked="" type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor
---	--

Upon review of the case, the court finds the facts stated above as well as the following (For Item 3, Check ONE Of The Two Boxes):

- The defendant is eligible for deferral of the prosecution pursuant to Tennessee Code Annotated section (T.C.A.) 40-35-313;
- The Tennessee Bureau of Investigation has certified (per attached certificate) that the defendant does not have a prior felony or Class A misdemeanor conviction;
- The defendant was not charged with a violation of a criminal statute the elements of which constitute abuse, neglect or misappropriation of the property of a vulnerable person as defined in T.C.A. 68-11-1004; OR
 The defendant agrees without contest or any further notice or hearing that the defendant's name shall be permanently placed on the registry governed by 68-11-1004, whereupon a copy of this order shall be forwarded by the clerk to the department of health;
- The defendant consents to T.C.A. 40-35-313 deferral, as evidenced by the defendant's signature below; AND
- The defendant should be granted a deferral of charges pursuant to T.C.A. 40-35-313.

It is, therefore, ORDERED that the prosecution in this case is deferred pursuant to T.C.A. 40-35-313, and the defendant is placed on probation pursuant to T.C.A. 40-35-303. The terms of both statutes and of T.C.A. 40-35-304, -305, and -308 through -312 are incorporated herein by reference thereto. In addition, the following terms and conditions apply to the defendant's probation.

Probation Term: Beginning 11/29/12 Ending 11/29/14 Supervised Unsupervised
 Supervising Entity: TN Bd. of Prob. & Parole

Conditions of Probation (Deferral) (CHECK ALL BOXES WHICH APPLY):

<input checked="" type="checkbox"/> Submit to supervision by supervising entity <input checked="" type="checkbox"/> Obtain/Maintain gainful employment - <u>OR</u> <input type="checkbox"/> Medical and/or mental health treatment <input type="checkbox"/> Pay expenses for drug or alcohol treatment (T.C.A. 40-35-313) <input checked="" type="checkbox"/> Refrain from possessing a firearm or other dangerous weapon <input type="checkbox"/> Pay sex offender tax/line (T.C.A. 39-13-709 / T.C.A. 40-24-108) <input type="checkbox"/> Notify the court or supervising entity of change of residential address or employment <input checked="" type="checkbox"/> Remain within the boundaries of Tennessee unless supervising entity approves travel beyond <input type="checkbox"/> Remain within the following boundaries: <input checked="" type="checkbox"/> Other conditions reasonably related to the purpose of the defendant's sentence and not unduly restrictive of the defendant's liberty or incompatible with the defendant's freedom of conscience, as specified in writing by the supervising agency.	<input checked="" type="checkbox"/> Report as directed by supervising entity or court <input type="checkbox"/> Meet defendant's family responsibilities <input type="checkbox"/> Drug assessment and/or treatment <input type="checkbox"/> Alcohol assessment and/or treatment <input checked="" type="checkbox"/> Pursue secular course of study or vocational training <input type="checkbox"/> Pay drug testing fund fee (T.C.A. 39-17-420) <input type="checkbox"/> Inmate responsibility community service: _____ hours <input type="checkbox"/> _____
--	--

Pay restitution: \$ _____ Total (\$ _____ per month/week (circle one)) This 20 day of March, 2013
 Pay supervision fees (T.C.A. 40-35-313): \$ _____ Total (\$ _____ per month/week (circle one))
 Pay court costs
 ADDITIONAL CONDITIONS: may transfer to GA BY [Signature]

Defendant _____
 Hon. Mark J. Fishburn JUDGE'S NAME
 Counsel for the Defendant _____
 ENTER this the 29th day of November, 2012.
 JUDGE'S SIGNATURE [Signature]
 Counsel for the State of Tennessee [Signature]



SEVENTEENTH JUDICIAL DISTRICT
DAVIDSON COUNTY, TENNESSEE
DIVISION VI

STATE OF TENNESSEE

VS.

James McWilliams

DOCKET NO. 2012-B-1399

Best Interest

PETITION TO ENTER PLEA OF GUILTY

I, the above named defendant, pursuant to Rule 11 of the Tennessee Rules of Criminal Procedure, respectfully state to the Court as follows:

1. My full legal name is James McWilliams

2. I am represented in this case by a lawyer and the name of my attorney is Laura J. Getz

3. I received a copy of the indictment or information, which states the charge(s) against me, before I was required to plead to the charge(s). I have read and discussed the indictment or information with my attorney.

4. I have told my lawyer everything I know about the facts and circumstances surrounding the charge(s) against me.

5. My lawyer has told me and I understand the definitional elements of the crime(s) I am charged with; that is, my lawyer has explained to me what the State has to prove beyond a reasonable doubt to convict a person of the offense(s).

My attorney has also informed me in detail and I understand what the State's evidence against me would be in regard to the charge(s).

My lawyer has explained all possible defenses I might have.

My attorney has counseled and advised me on all of these matters and I understand them.

Thus, I believe I presently understand every charge against me.

6. My attorney has told me and I understand that the punishment I could receive, including both possible incarceration and/or fine, is: [Set our range of punishment for offense(s) charged and pleaded to, if different.]

Child Abuse, Class D Felony, Carries 2-12 years, Fine up to \$5,000

I hereby certify that this is a true and exact copy of the original.

This 11th day of March, 2013

CRIMINAL COURT CLERK

BY [Signature] DC

7. My attorney has explained that the Court will consider each count of each indictment or information to which I plead "GUILTY" as a separate offense, and may order that I serve the sentences for multiple offenses consecutively, that is, one after the other.

8. I understand that in making its sentencing determination the Court will consider all of my prior criminal convictions.

9. I understand that the Court's authority to impose punishment is the same if I plead "GUILTY" as it is if I plead "NOT GUILTY", have a jury trial, and am convicted.

10. My attorney has discussed with me whether I am eligible for alternative sentencing, including probation. I understand my attorney's statements on this issue. Although, if eligible, I hope to receive probation or other alternative sentencing, I agree to accept any punishment which the law permits the Court to impose.

11. I understand that the Tennessee Constitution guarantees me the right to have any fine greater than fifty dollars (\$50.00) set by a jury. I wish to give up that right and want the Court to set any fine which is part of my punishment.

CERTIFICATE OF DEFENDANT'S COUNSEL

The undersigned, as attorney for the foregoing named defendant, James McWilliams, in Criminal Case No. 2012-13-1399, hereby certifies as follows:

1. I have read and fully explained to the defendant the charge(s) against him/her as set out in the indictment or information. I have discussed with the defendant the defendant's knowledge of the facts and circumstances surrounding the charge(s). I have also discussed all possible defenses with the defendant.
2. To the best of my knowledge and belief each statement set forth in the foregoing petition is in all respects accurate and true.
3. The plea of "GUILTY" as offered by the defendant in paragraph twenty-two (22) of the foregoing petition accords with my understanding of the facts as related to me by the defendant, and is consistent with my advice to the defendant.
4. In my opinion, the defendant's waiver of his/her constitutional and statutory rights is voluntarily and understandingly made; and I recommend to the Court that the plea of "GUILTY" be now accepted and entered on behalf of the defendant as requested in paragraph twenty-two (22) of the foregoing petition.
5. I have explained to the defendant any/all potentially applicable forms of alternative sentencing, including probation.
6. I have read the foregoing Petition to Enter a Plea of Guilty to the defendant and/or discussed each provision with him/her in detail.

Signed by me in the presence of the defendant, this the 19 day of September, 2012.

[Signature]
ATTORNEY FOR DEFENDANT

CERTIFICATE OF DISTRICT ATTORNEY GENERAL

I, R. McGinnis, am the Assistant District Attorney General assigned to represent the State in the subject case. I certify that I have read the recommendation for the guilty plea and punishment set forth in paragraph twenty-two (22) in the foregoing Petition To Enter Plea of Guilty, and find that it accurately states the terms and scope of the plea agreement.

[Signature]
ATTORNEY FOR STATE

I hereby certify that this is a true and exact copy of the original.

This 19 day of March, 2013
CRIMINAL COURT CLERK

[Signature] DC