

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

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BOARD OF PROFESSIONAL
RESPONSIBILITY

Kew EXECUTIVE

IN RE: KRISTEN E. MORRELL
BPR #22994, Petitioner
An Attorney Licensed to
Practice Law in Tennessee
(Sullivan County)

DOCKET NO. 2015-2438-1-AJ (30.4(d))

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter came on for hearing before a duly appointed Hearing Panel on June 25, 2015, upon a Petition for Reinstatement filed on April 7, 2015, by the Petitioner, Kristen E. Morrell, and upon an Answer to Petition for Reinstatement filed by the Board of Professional Responsibility ("Board"). Present were Frank A. Johnstone, Panel Chair; Charles T. Herndon, IV, Panel Member; M. Neil Smith, Panel Member; Kristen E. Morrell, Petitioner, and Alan D. Johnson, Disciplinary Counsel. The Panel makes these findings and conclusions.

FINDINGS OF FACTS

Disciplinary History

Ms. Morrell was suspended from the practice of law on April 15, 2011, for one (1) year for violations related to the abandonment of her practice. In the Board's order, Ms. Morrell was ordered to pay restitution to four clients. In the event she is reinstated, she was to be placed on probation and engage a practice monitor, and was to report to the Tennessee Lawyer Assistance Program within ninety (90) days of reinstatement.

At the time of her suspension, Ms. Morrell had been placed on administrative suspension for noncompliance with continuing legal education (CLE) on September 7, 2010, and for failure

to pay annual registration fees to the Board on October 15, 2010.

Petition for Reinstatement

Ms. Morrell filed a Petition for Reinstatement to the practice of law on April 7, 2015. At the hearing of this matter, Ms. Morrell testified and introduced several exhibits in support of her petition. Ms. Morrell accepts responsibility for her actions that resulted in her suspension, and explained the circumstances in her personal life that led to her misconduct. She has addressed the issues in her personal life that contributed to her suspension, and has made great strides in her ability to address and cope with her difficulties.

She has made restitution to all but one former client. She has not been able to contact that client despite sending letters, making phone calls and using whatever means available to locate her. Ms. Morrell introduced as an exhibit a check in the full amount of restitution made payable to the client who she has been unable to locate.

Ms. Morrell entered a Monitoring Agreement with the Tennessee Lawyer Assistance Program on February 10, 2015, which is set to expire on February 10, 2017. She is up to date on her CLE requirements and has satisfied her obligations with regard to her annual registration fees. Both administrative suspensions have been resolved.

Four character witnesses testified on behalf of Ms. Morrell. These witnesses included Mark Fetter, a former client and Brad Sproles an attorney who is familiar with Ms. Morrell's ability and character. In addition, she introduced affidavits and letters from character witnesses including a communication from Ted Rice from the Tennessee Lawyer Assistance program, all of whom recommended her return to the practice of law.

STANDARDS FOR REINSTATEMENT

Tenn. Sup. Ct. R. 9, § 30.4(d)(1) states "[t]he hearing committee shall schedule a hearing

at which the petitioner shall have the burden of demonstrating by clear and convincing evidence that the attorney has the moral qualifications, competency and learning in law required for admission to practice law in this State and that the resumption of the practice of law within the State will not be detrimental to the integrity and standing of the bar or the administration of justice, or subversive to the public interest.” The Supreme Court has defined “clear and convincing” as: “While [the clear and convincing standard] is more exacting than the preponderance of the evidence standard, it does not require such certainty as beyond a reasonable doubt standard. Clear and convincing evidence eliminates any serious or substantial doubt concerning the correctness of the conclusions to be drawn from the evidence. It should produce in the fact-finder's mind a firm belief or conviction with regard to the truth of the allegations sought to be established.” *Hughes v. Board of Professional Responsibility*, 259 S.W.3d 631, 642 (Tenn. 2008), citing *O’Daniel v. Messier*, 905 S.W.2d 182 (Tenn. Ct. App. 1995).

Tenn. Sup. Ct. R. 9, § 1 states in part, “[t]he license to practice law in this State is a continuing proclamation by the Court that the holder is fit to be entrusted with professional and judicial matters, and to aid in the administration of justice as an attorney and as an officer of the Court. . .” The license to practice law in this state is not a right, but a privilege.

The moral qualifications required for admission to practice law in this State, as set forth in Article VI, Section 6.01(a) of Rule 7 of the Rules of the Supreme Court of Tennessee state:

(a) An applicant shall not be admitted if in the judgment of the Board there is reasonable doubt as to that applicant’s honesty, respect for the rights of others, adherence to an obedience to the Constitution and laws of the State and Nation as to justify the conclusion that such applicant is not likely to adhere to the duties and standards of conduct imposed on attorneys in this State. Any conduct which would constitute grounds for discipline if engaged in by an attorney in this State shall be considered by the Board in making its evaluation of the character of an applicant.

CONCLUSIONS OF LAW

Upon testimony of Petitioner, evidence presented, and upon the entire record in this cause, the Hearing Panel finds that Ms. Morrell has met her burden of proving, by clear and convincing evidence, that she “has the moral qualifications, competency and learning in law required for admission to practice law in this State and that the resumption of the practice of law within the State will not be detrimental to the integrity and standing of the bar or the administration of justice, or subversive to the public interest.”

IT IS THEREFORE ORDERED AS FOLLOWS:


1. The Hearing Panel recommends that the Petitioner’s Petition for Reinstatement filed pursuant to Tenn. Sup. Ct. R. 9, § 30.4(d), be granted, and the following conditions be placed upon Ms. Morrell:
 - a. Ms. Morrell is to continue with her Tennessee Lawyer Assistance Program Monitoring Agreement;
 - b. Consistent with the intent of the Order of Enforcement entered on April 15, 2011, and Rule 9, § 30.4 (d) (7), which authorizes this Hearing Panel to impose conditions on the petitioning attorney’s reinstatement, upon her return to the practice of law, Ms. Morrell shall engage a practice monitor at her own expense who shall meet with Ms. Morrell for two (2) years on a monthly basis to review her office procedures, including assessment of case load, timeliness of tasks, and adequacy of communication between Ms. Morrell and her clients. In the event Ms. Morrell does not resume the practice of law immediately upon reinstatement, she is to inform Disciplinary Counsel when she intends to return to the practice of law, and submit three (3) names of potential practice monitors to the Board for

final approval. Pursuant to Rule 9, § 12.9 (c), the practice monitor shall send monthly reports of these meetings to Board.

- c. Ms. Morrell shall continue her efforts to locate her former client to whom she owes restitution. Within thirty (30) days of engaging a practice monitor, Ms. Morrell shall deposit the sum of \$2,325.00 in the trust account of the practice monitor which amount represents the unpaid restitution. The funds shall be subject to T.C.A. § 66-29-101, *et. seq.* (Uniform Disposition of Unclaimed Property Act).
- d. Ms. Morrell shall pay within sixty (60) days of the entry of this order, any amount owed to the Appellate Court cost center.

FOR THE PANEL:


Frank A. Johnstone, Hearing Panel Chair


Charles T. Herndon, IV, Hearing Panel Member


M. Neil Smith, Hearing Panel Member