

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

FILED

2017 NOV -8 AM 10: 32

BOARD OF PROFESSIONAL
RESPONSIBILITY

Law
EXD. REC.

IN RE: MARK L. PITTMAN
BPR No. 12753, Petitioner,
an Attorney Licensed to Practice
Law in Tennessee
(Shelby County)

DOCKET NO. 2017-2732-9-WM-30.4d

ORDER GRANTING PETITION FOR REINSTATEMENT

The Petitioner, Mark L. Pittman, filed a Certified Petition for Reinstatement to the Active Practice of Law on June 19, 2017. Disciplinary Counsel filed an Answer to the Petition on August 1, 2017. The Board of Professional Responsibility ("BPR") appointed a panel to hear this matter on August 8, 2017, composed of Frank Childress, Jr., Russell W. Savory and Andre C. Wharton. Following a Case Management Conference, the Petition was set for a hearing on October 23, 2017, and the Panel heard the matter on that date in the Supreme Court Room of the Shelby County Courthouse. Based on testimony of the witnesses, the documentary evidence, the statements of counsel and the record as a whole, the panel makes the following findings of fact and conclusions of law.

FINDINGS OF FACT

1. Mr. Pittman was admitted to practice law in the state of Tennessee in 1987. In or around 2000, he began to feel "burned out" in his general practice of law. His law partner and associate left his firm, leaving him as the only attorney with a caseload of over 200 files. After

practicing solo, Mr. Pittman became an associate with another attorney but eventually abandoned his practice and began working at FedEx Express as a package handler in 2003.

2. Beginning in 2003, the BPR filed a series of petitions for discipline based on the complaints of numerous clients and one attorney. At the hearing on his petition for reinstatement, Mr. Pittman admitted to all of the complaints and allegations set out in the BPR's petitions. These included instances where he took fees from clients without doing the work, lied to his clients, and failed to communicate and provide notice of his changes in office address. The particular circumstances of these complaints is set out in the May 24, 2006 Order of Enforcement, pursuant to which Mr. Pittman was disbarred.

3. Testifying on behalf of Mr. Pittman was Mr. Ted Rice, Deputy Director of the Tennessee Lawyers Assistance Program, a National Certified, Employee Assistance Professional, National Board Certified Counselor, and a licensed Professional Counselor, Mental Health Service Provider status designation in the state of Tennessee. Mr. Rice testified by telephone that Mr. Pittman's first contact with the Tennessee Lawyer's Assistance Program ("TLAP") was in 2004. TLAP referred him to Dr. James Woods, a psychiatrist, in June of 2004. Mr. Pittman was suffering from clinical depression. He contacted TLAP again in 2007 and was referred to Drs. Mealer and Ciocca for counseling and treatment. Mr. Pittman met with Mr. Rice in June of 2014, and at that time he appeared to have recovered from his depression and was moving in a positive direction in his life, having obtained a Masters of Business Education degree and taking courses toward a nursing degree. At that time he expressed his guilt and shame at what had happened in his law practice. He also expressed a desire to take responsibility for his past actions. In expressing his sorrow and remorse, Mr. Rice found him to be credible, honest and sincere. He was referred to Dr. Jeffery Hamsley, a psychologist, in Collierville,

Tennessee. Dr. Hamsley wrote Mr. Rice on September 25, 2014 reporting on the results of his evaluation and indicated that Mr. Pittman had attended five individual counseling sessions, and as a result, Dr. Hamsley concluded that Mr. Pittman had benefited from his course of psychotherapy, and in addition, thought that he was ready to begin the license reinstatement process. Mr. Rice continued to assist Mr. Pittman in this regard, and on August 17, 2017, Dr. Hamsley issued a report to him indicating that Mr. Pittman attended an additional individual counseling session, that he had been an active participant throughout the psychotherapy process, attending all scheduled sessions with no tardiness, and completing all homework assignment in a timely and efficient manner. He also concluded that in his professional opinion, Mr. Pittman had benefitted from his course of psychotherapy and that he was ready to complete the license reinstatement process.

4. Mr. Nat Yogar testified before the Panel. He is a minister and employed by Baptist Memorial Hospital as Chaplain. He has known Mr. Pittman for approximately four (4) years, and they worked together in teaching Sunday school at Bellevue Baptist Church in Memphis. Mr. Yogar further testified that Mr. Pittman has taught Sunday school at Bellevue Baptist Church for about fourteen (14) years and that they currently teach a middle school aged class as a team. He stated that Mr. Pittman is a morally upstanding person and imparts his morality and values to young people, that he teaches almost every Sunday, and that each class involves preparation that the two of them engage in together at lunch meetings. He is aware of Mr. Pittman's history as an attorney and indicated that petitioner has the sincere desire to "make it right" and to fulfill the promise of his Christian faith.

5. Mr. Pittman testified at length regarding the background of his law practice before disbarment, his work history since that time, including employment at FedEx Express, his

obtaining a Masters of Business Administration from Union University and taking nursing courses, and his admission to an accelerated nursing degree program. He also testified regarding his counseling and psychological treatment. He stated that he is not currently suffering from depression, and that he is willing and able to seek counseling if necessary or required. He also testified that his reinstatement application is grounded in his acknowledgement and admission of all of the allegations made against him by the complainants and the BPR and his desire to make amends. He stated that while he did not expect to enter the active practice of law if reinstated, that having a law license would be useful to him in his employment. Mr. Pittman has completed numerous online and live continuing legal education courses within the past year. He has stipulated that he would need to successfully pass a bar examination as a condition of reinstatement.

6. In compliance with the Supreme Court's Order of Enforcement of May 28, 2006, Mr. Pittman has paid all of the Board's costs, has made restitution of unearned fees and costs to four former clients identified in Paragraph 86 of the Order of Enforcement or to the Tennessee Lawyer's Fund for Client Protection (the "Fund"), has presented himself to the Tennessee Lawyer's Assistance Program for assessment and recommendation, has paid the claims of Herbert Parson, David Hopkins, and Lester Eggleston to the Fund, and has agreed to contribute \$2,500 to the fund on behalf of claimants Latasha Terry and Dean and Barbara Gassaway, who did not file claims against the Fund.

CONCLUSIONS OF LAW

Petitioner has the burden of demonstrating, by clear and convincing evidence, that he has the moral qualifications and competency in learning and law required for admission to practice law in Tennessee, and that the resumption of his practice will not be detrimental to the integrity

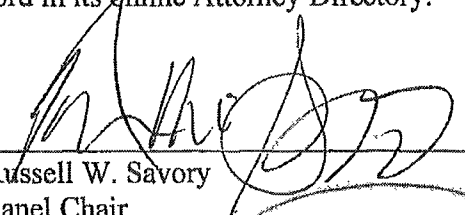
and standing of the Bar or to the administration of justice, nor would it be subversive to the public interest. Tenn. Sup. Ct. R. 9, § 30-4(d)(1). The Tennessee Supreme Court has defined “clear and convincing” as:

While [the clear and convincing standard] is more exacting than the preponderance of the evidence standard, it does not require such certainty as the 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. *Shears v. Board of Professional Responsibility*, 259 S.W.3d 231, 242 (Tenn. 2008), citing *O’Daniel v. Messier*, 905 S.W.2d 182 (Tenn. Ct. App. 1995).

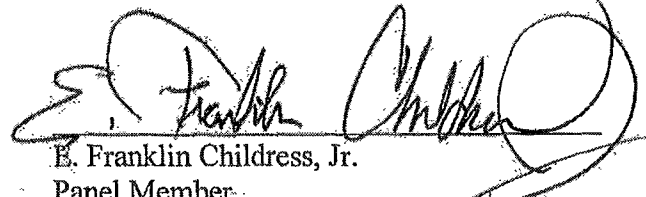
Based on the law, the testimony of witnesses and the Petitioner, and the documentary evidence, the Panel finds that there is clear and convincing evidence that Mr. Pittman has the moral qualifications for reinstatement to the practice of law, and that his resumption of practice would not be detrimental to the integrity and standing of the Bar, the administration of justice, or subversive to the public interest. The Panel further finds that by his submitting to and successfully passing a Tennessee bar examination and Multistate Professional Responsibility Examination, that he will have demonstrated competency and learning in the law as required under Rule 9.

IT IS, THEREFORE, ORDERED that Mark L. Pittman be reinstated to the active practice of law conditioned upon his taking and successfully passing the bar examination and Multistate Professional Responsibility Examination, his paying \$2,500 as restitution to the Fund, his entering into a Monitoring Agreement with the Tennessee Lawyer’s Assistance Program for a period of one (1) year with the BPR designated as a reporting agent, that he notify the BPR within thirty (30) days of accepting active employment as an attorney and engage a practice monitor for a period of one (1) year following such notification for the purpose of reviewing his


case load and the quality of his communications with clients. The Board is hereby directed to continue publication of Mr. Pittman's disciplinary record in its online Attorney Directory.



Russell W. Savory
Panel Chair



E. Franklin Childress, Jr.
Panel Member



Andre C. Wharton
Panel Member

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing has been sent to Petitioner, Mark L. Pittman, 8111 Walnut Run Road, Suite 101, Cordova, TN 38018-3115, and to his counsel, Samuel J. Muldavin, 707 Adams Avenue, Memphis, TN 38105, by U.S. First Class Mail, and hand-delivered to William C. Moody, Disciplinary Counsel, on this the 8th day of November, 2017.



Rita Webb
Executive Secretary

NOTICE

This judgment may be appealed pursuant to Tenn. Sup. Ct. R. 9, § 33 (2014) by filing a Petition for Review in the Circuit or Chancery court within sixty (60) days of the date of entry of the hearing panel's judgment.