

IN THE CIRCUIT COURT FOR HAMILTON COUNTY, TENNESSEE

ROBERT PHILIP RAYBURN, SR.,)
)
 Petitioner)
)
)
 v.)
)
)
 BOARD OF PROFESSIONAL)
 RESPONSIBILITY OF THE)
 SUPREME COURT OF TENNESSEE)
)
 Respondent)
)

NO. 07C967

ORDER

This matter came on for hearing before the court pursuant to notice at 9:30 a.m., on May 1, 2008, on the Petition for Writ of Certiorari filed by Robert Philip Rayburn, Sr., on August 20, 2007, pursuant to Section 1.3 of Supreme Court Rule 9, seeking review of the Final Judgment of the Hearing Panel of the Board of Professional Responsibility filed June 19, 2007, wherein the Petitioner was disbarred from the practice of law, with reinstatement conditioned on restitution in the amount of \$46,829.24. Mr. Rayburn did not appear and was not represented. The Board of Professional Responsibility was represented by James A. Vick.

On April 30, 2008, Mr. Rayburn filed a Notice of Voluntary Non-Suit Without Prejudice, pursuant to Tennessee Rules of Civil Procedure 41.01, and Order of Voluntary Non-suit Without Prejudice. A Voluntary Non-Suit Without Prejudice is not an appropriate disposition of the Writ of Certiorari and is Denied.


On October 15, 2007, the Board of Professional Responsibility filed its Return to Writ

Certiorari, which contained the record of the proceeding before the Board of Professional Responsibility with exception of the transcripts of the hearings conducted before the Hearing Panel on March 28, 2007, and June 5, 2007. On December 12, 2008, the Board of Professional Responsibility filed a Motion to Dismiss Petitioner's Writ of Certiorari due to Respondent's failure to file the transcripts of the hearings conducted before the Hearing Panel of the Board of Professional Responsibility on March 28, 2007, and June 5, 2007. On December 14, 2007, Mr. Rayburn filed a Motion for Additional Time to File the Transcripts. On February 22, 2008, the Board of Professional Responsibility filed an Amended Return to Writ of Certiorari, to include the transcript of the hearing conducted before the Hearing Panel on March 28, 2007. On February 13, 2008, the Board of Professional Responsibility filed a Renewed Motion to Dismiss Petitioner's Writ of Certiorari due to Respondent's failure to file the transcript of the hearing conducted before the Hearing Panel on June 5, 2007. The Petitioner never filed the transcript of the June 5, 2007, hearing. The entire record of the proceedings before the Board of Professional Responsibility, other than the transcript of the hearing conducted on June 5, 2007, was filed by the Board of Professional Responsibility.

Review of the record reflects that the Hearing Panel of the Board of Professional Responsibility entered an order granting default judgment against Mr. Rayburn on January 4, 2007, due to Mr. Rayburn's failure to respond to discovery and to comply with orders entered relative to same. The record further reflects that Mr. Rayburn did not appear for the hearing conducted before the Hearing Panel on June 5, 2007. The court finds from review of the record that the factual and legal findings reflected in the Judgment of the Hearing Panel filed June 19, 2007, and the grant of default judgment against Mr. Rayburn entered January 5, 2007, are fully supported by evidence which is both substantial and material in light of the entire record.

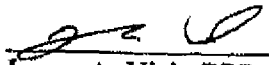
It is, therefore, **Ordered, Adjudged and Decreed**, that: 1) Mr. Rayburn's Motion to Voluntarily Dismiss Without Prejudice is denied; 2) that the Board of Professional Responsibility's Motion to Dismiss Petition for Writ of Certiorari due to Respondent's failure to file the transcript of the hearing conducted on June 5, 2007, is granted; and 3) that, upon review of the record of the Board of Professional Responsibility, and aside from the dismissal for failure to file the transcript of the June 5, 2007, hearing before the Hearing Panel of the Board of Professional Responsibility, Mr. Rayburn's Writ of Certiorari is dismissed and the Judgment of the Hearing Panel filed June 19, 2007, is affirmed in all respects.

FOR THE COURT:



Jen Kerry Blackwood
Senior Judge

APPROVED FOR ENTRY:



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