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

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BOARD OF PROFESSIONAL RESPONSIBILITY

IN RE: WALTER ALAN ROSE  
BPR #28903, Respondent,  
An Attorney Licensed to Practice  
Law in Tennessee  
(Rutherford County)

NO: ~~2016-2543-4-AW~~

2019-2969-4-AW-304d

HEARING PANEL ORDER

This Cause came to be heard on the 15<sup>th</sup> day of July 2019 before the Hearing Panel upon the Petition of Walter Alan Rose for Reinstatement filed on February 19, 2019. The Board of Professional Responsibility (BOPR) filed a Response to the Petition on March 27, 2019.

By Order entered January 11<sup>th</sup>, 2017, Petitioner was suspended from the practice of law in Tennessee for three years, retroactive to October 30<sup>th</sup>, 2015 and ordered to report to TLAP for an evaluation within five days of the entry of the Order. Reinstatement to the practice of law is conditioned upon Mr. Rose satisfying all Continuing Legal Education requirements; remitting all outstanding registration fees and outstanding professional privilege taxes, including those due from the date of this suspension until the date of reinstatement; remitting all court costs and Board costs in this matter and successful completion of any monitoring agreement recommended by TLAP.

II. Findings of Fact

1. Mr. Rose is a native of Rutherford County. As a very young child, Mr. Rose was adopted by his maternal grandmother and was raised in Smyrna, Tennessee. He attended public schools in Rutherford County and graduated with honors from Smyrna High School. He

attended the University of the South (Sewanee) and finished his degree at Middle Tennessee State University.

2. Petitioner is a 2009 graduate of the University of Memphis, Cecil C. Humphreys School of Law. He was licensed to practice law in Tennessee in July 2010 and entered private practice. His areas of concentration were family law, criminal law, civil rights, personal injury, commercial litigation and probate.

3. Petitioner purchased a practice in Crossville, TN, and apparently the phone numbers associated with the established practice were popular. He immediately became very busy.

4. In early 2012, he decided to have a wisdom tooth extracted. There were complications with the extractions. The dentist prescribed Percocet to him for approximately three weeks. He became addicted both mentally and physically. When the prescriptions stopped, he went into withdrawal. He started looking for sources for the drug and obtained drugs from others. A client's girlfriend offered to provide the pills. It was a setup by law enforcement and Petitioner was arrested and charged with simple possession.

5. He immediately reported to TLAP, and voluntarily submitted to frequent drug test. He received pretrial diversion for the State charges against him, and he was required to submit to random drug screens during diversion.

6. On October 3, 2013, the federal government charged Petitioner with Unlawful Possession of a Firearm by a Person Addicted to a Controlled Substance, a felony. These charges were based on the same conduct that was the subject of the State charges. He pled guilty and on August 12, 2016, the Court sentenced him to house arrest for 6 months and 6 months' probation. He was subjected to drug screens during that probation.

7. On February 10, 2017, Mr. Rose entered into a Monitoring Agreement with TLAP and successfully completed the program in November 2018.

8. Petitioner presented his own testimony, the testimony of his TLAP Monitor, Robert Carter, the testimony of his finance, Katherine Polsinelli, and the testimony of Vanessa Reinartz of TLAP, all of whom testified in support of Petitioner regarding character, sobriety and fitness to practice law.

9. Petitioner testified extensively regarding his remorse for what he did and how he had learned to be responsible for his actions. Mr. Carter testified that he had witnessed a very positive change in Petitioner while serving as his TLAP monitor. Specifically, Mr. Carter testified that Petitioner had accepted full responsibility for what he had done. Ms. Polsinelli testified that she had similarly observed Petitioner's acceptance of responsibility and remorse for what he had done. Ms. Reinartz described Petitioner's full and complete compliance with Petitioner's obligations under his contract with TLAP, including the negative results of all drug tests conducted by TLAP.

10. Since Petitioner's arrest on the State charges in 2012, Petitioner was almost continuously subject to drug screens, and he passed each and every screen. In addition, Petitioner demonstrated that he has decided to enter into voluntary mental health counseling and has received such counseling since May of this year.

11. Petitioner submitted documentary evidence and testimony regarding his monthly attendance in Narcotics Anonymous meetings since November 2018 through Smart Recovery. He participated in the Smart Recovery program at the request of TLAP. He had previously and consistently attended NA meeting through other outlets, but TLAP advised him that Smart Recovery was best for him. Petitioner testified that Smart Recovery has been most helpful to

him, and, as a result, he has gained a network of persons who are supportive and helpful for his recovery and dedication to remain clean and sober.

### CONCLUSIONS OF LAW

12. In order to be reinstated to the practice of law Petitioner must show 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, and that the petitioning attorney has satisfied all conditions set forth in the order imposing discipline, including the payment of costs incurred by the Board in the prosecution of the preceding disciplinary proceeding and any court costs assessed against the attorney in any appeal from such proceeding.

Tenn. Sup. Ct. R. 9, § 30.4(d)(1)

13. It is undisputed that Petitioner has satisfied the conditions set forth in the order imposing discipline.

### **III. Mr. Rose's Moral Qualifications**

All of Petitioner's witnesses testified that Mr. Rose possessed the moral qualifications to practice in this state. These witnesses testified to the changes in his character and his efforts to rehabilitate himself.

The proof is further undisputed that Petitioner only strayed from his normal moral standards during a brief period of time during which he was addicted to drugs. All of the witnesses testified to the positive changes in Petitioner's character and his behavior since his arrest.

Petitioner regularly attends Narcotics Anonymous meetings, and Mr. Carter and Petitioner continue to meet with one another for support.

All of these items and specific rehabilitation observed by Petitioner's witnesses are specific facts and circumstances which have arisen since Petitioner's arrest and evidence that he has the moral qualifications to be reinstated to the practice of law.

**IV. Petitioner's Competency and Learning in the Law**

The proof in this matter is undisputed that Petitioner is a good lawyer and has the competency and learning in the law required for admission to practice law in this state.

In addition, Petitioner has maintained his CLE requirement during the period of his suspension.

However, this Panel believes it is very important for Petitioner to have a practice monitor. That practice monitor should require Petitioner to provide him monthly reports of the matters he is handling, the legal issues involved in the matter, and the progress in the case Petitioner has made since his previous month's report. These efforts will assure that Petitioner maintains the proper competency and learning in the law to practice law in this State under the supervision of a practice monitor, as required by the Order of the Tennessee Supreme Court. His counsel, Mr. Ramsey, has agreed to serve as a monitor.

**V. Petitioner's Reinstatement Will Not Be Detrimental to the Integrity and Standing of the Bar, the Administration of Justice, or Subversive to the Public Interest**

As stated above, Petitioner and his witnesses have well-documented his efforts toward professional rehabilitation and personal redemption.

This Panel gives great weight to the fact that the Tennessee Lawyer's Assistance Program, recommends that Petitioner be reinstated.

The Board of Professional Responsibility took no position on the issue of reinstatement and presented no proof.

Accordingly, this Panel finds that Mr. Petitioner should be reinstated to the practice of law upon the following conditions:

1. He must enter into a new Tennessee Lawyer's Assistance Program contract, for a period of eighteen months.

2. Petitioner's counsel must serve as a Practice Monitor who shall confer with Petitioner weekly, meet with Petitioner monthly and review the status of his cases, fee agreements and deposits of trust funds and retainers.

3. In addition, this Panel will require that Petitioner receive six hours of Ethics CLE in addition to required 15 hours of CLE.

4. In addition, the Panel recommends that Petitioner attend all CLE in person, and that he make every effort to make an arrangement with other lawyers to practice with them or, at least, share space with them.

IT IS SO ORDERED this 2 day of August, 2019.

FOR THE HEARING PANEL

BY: Christina Henley Duncan  
Christina Henley Duncan, Chair

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing pleading has been forwarded to William T. Ramsey, Esq., attorney for petitioner, 1201 Demonbreun Street, Suite 1000, Nashville, Tennessee, 37203; and A. Russell Willis, Esq., 10 Cadillac Drive, Suite 220 Brentwood, Tennessee, 37027, via electronic mail, this 7<sup>th</sup> day of August, 2019.

FOR THE HEARING PANEL

BY: Christina Henley Duncan  
Christina Henley Duncan, Chair