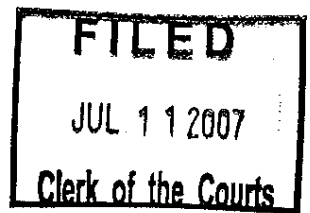


IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE



DRAYTON BEECHER SMITH, II, BPR #008450
An Attorney Licensed In Tennessee
(Shelby County)

BPR DOCKET NO. 2007-1686-9-LC(14)

NO. M 2007-01516-SC-RPO-RP

ORDER

This matter is before the Court pursuant to Section 14.1 of Rule 9 of the Rules of the Supreme Court of Tennessee, upon a certificate filed by Disciplinary Counsel for the Board of Professional Responsibility consisting of a certified copy of the Guilty Plea in the criminal case, United States of America vs. Drayton Beecher Smith, II, No. 06-20438-BBD (attached hereto as Exhibit A) filed in the U. S. District Court for Western District of Tennessee on June 18, 2007, demonstrating that Drayton Beecher Smith, II, a Tennessee attorney, has pled guilty to felony violations. Two counts of possession of and receiving child pornography as set forth in the Indictment (attached hereto as Exhibit B).

Section 14.1 of Rule 9 states "Such suspension shall take place regardless of the pendency of a motion for new trial or other action in the trial court and regardless of the pendency of an appeal. Such suspension shall remain in effect pending the final disposition of a disciplinary proceeding to be commenced upon such finding of guilt."

It is therefore **ORDERED**, pursuant to Section 14.1 of Rule 9 of the Rules of the Supreme Court of Tennessee, that Drayton Beecher Smith, II is suspended from the practice of law on this date pending further orders of this Court.

ORDER
Drayton Beecher Smith, II, BPR #008450
BPR Docket No. 2007-1686-9-LC(14)

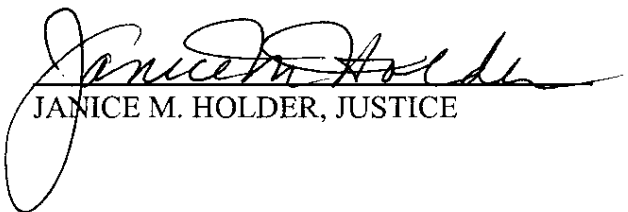
It is further **ORDERED** that this matter be referred to the Board of Professional Responsibility for the institution of a formal proceeding in which the sole issue to be determined shall be the extent of the final discipline to be imposed as a result of the subsequent conviction by Guilty Plea.

It is further **ORDERED** that Drayton Beecher Smith, II shall fully comply with the provisions of Tennessee Supreme Court Rule 9, Section 18, concerning disbarred or suspended attorneys.


It is further **ORDERED** that the Board of Professional Responsibility shall cause notice of this suspension to be published as required by Supreme Court Rule 9.

ENTERED this 11th day of July, 2007.

FOR THE COURT:


JANICE M. HOLDER, JUSTICE

APPROVED FOR ENTRY:


Laura L. Chastain, BPR #12018
Deputy Chief Disciplinary Counsel
1101 Kermit Drive, Suite 730
Nashville, TN 37217
615-361-7500
SmithDraytonOrderSection14-LC

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

FILED IN OPEN COURT

DATE: 6-18-2007

TIME: 9:15 Am

INITIALS: JH.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

Criminal No. 06-20438-BBD

DRAYTON BEECHER SMITH, II

Defendant.

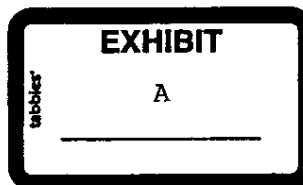
PLEA AGREEMENT

(1) I, DRAYTON BEECHER SMITH, have been charged with six (6) felony counts in the above-referenced criminal Indictment (Indictment No. 06-20438-BBD).

(2) I have been charged with violations of Title 18, United States Code, Section 2252(a)(2), and Section 2252(a)(4)(B). Additionally, there is a forfeiture provision (Count 7) pursuant to Section 2253. The maximum penalty for violation of Section 2252(a)(2), as charged, is a fine of \$250,000.00 and/or not less than five (5) years, not more than twenty (20) years imprisonment, and a period of supervised release for any term of years or life. The maximum penalty for violation of Section 2252(a)(4)(B), as charged, is a fine of \$250,000.00 and/or not more than ten (10) years imprisonment, and a period of supervised release for any term of years or life. Fees may be imposed to pay for incarceration or supervised release. There is a \$100 special assessment per felony count.

(3) I understand that the United States Attorney for the Western District of Tennessee and my defense counsel have entered into a plea negotiation of which I am fully aware and understand.

(4) My attorney, Mark S. McDaniel, whom I have retained to represent me, has informed me of the nature of these criminal charges and the elements of each charge, each of which must be proved by the Government beyond a reasonable doubt before I could be found guilty as charged.



CERTIFIED TRUE COPY
THOMAS M. GOULD, CLERK
BY Julian D. [Signature]
DEPUTY CLERK

(5) By voluntarily pleading guilty, I knowingly waive and give up my constitutional right to plead not guilty, to compel the Government to prove my guilt beyond a reasonable doubt, not to be compelled to incriminate myself, to confront and cross-examine the witnesses against me, to have a jury or judge determine my guilt on the evidence presented, and other constitutional rights which apply to a defendant on trial in a criminal case.

(6) I am pleading guilty to the charges described herein because I am guilty and because it is in my best interest to do so, and not because of any threats, or promises other than described in this written document. There has been no representation made whatsoever by any agent or employee of the United States to me as to what the final disposition of this matter should or will be, other than as set forth below. I understand that the matter of sentencing is within the sole discretion of the Court. I have discussed sentencing with my attorney.

I understand the plea agreement in this case to be as follows:

(7) I will enter a plea of guilty to Counts 1 and 2 of the above-referenced Indictment, charging me with the felony violations listed herein above.

(8) I agree to forfeit to the United States all my right, title, and interest in all property set forth in the "Forfeiture Allegations" section of Count 7 of the above-referenced Indictment.

(9) I understand that this is a Plea Agreement pursuant to Rule 11(c)(1)(C), and that there is an agreed upon sentence of imprisonment for Sixty (60) months (Five Years), to be followed by a period of supervised release to be determined by the Court, for any number of years up to life, pursuant to 18 U.S.C. §3583(k). I understand that the Court may accept or reject the terms of this Plea Agreement, and may postpone its decision until the Court has had the opportunity to review a presentence investigation report. I further understand that, if the Court rejects the terms of this Plea Agreement, I will be given the opportunity to withdraw my plea of guilty herein.

(10) I understand that persons convicted of crimes are required to pay a mandatory assessment of \$100 per felony count of conviction. I agree that payment of this assessment, in full, is a condition of this agreement and that failure to do so will make this entire agreement null and void, at the unilateral election of the United States.

(11) I understand that Title 18, United States Code, Section 3742 gives me the right to appeal the sentence imposed by the Court. Acknowledging this, I knowingly and voluntarily waive my right to appeal any sentence imposed by the Court and the manner in which the sentence is determined so long as my sentence is within the statutory maximum specified above. This waiver is made in exchange for the concessions made by

the United States in this Plea Agreement. The waiver in this paragraph does not apply to claims relating directly to this waiver of appellate rights or to its negotiation that also involve the involuntariness of my plea, prosecutorial misconduct, or ineffective assistance of counsel.

(12) I understand that this agreement does not apply to any crimes that I may have committed (other than those specifically set forth herein), or that I may commit hereafter, including perjury.

(13) I understand that the prosecution will be free to describe the nature of this offense and the evidence in this case.

(14) I understand that a thorough presentence investigation will be conducted and sentencing recommendations will be made by the preparer of the presentence report, which the Court may adopt or take into consideration.

(15) I willingly stipulate that there is a sufficient factual basis to support each and every material factual allegation contained within each count of the Indictment to which I am pleading guilty.

(16) I have not been coerced, threatened, or promised anything other than the terms of this plea agreement, described above, in exchange for my plea of guilty. I understand that I will have an opportunity to personally address the Court prior to sentence being imposed.

(17) I can read and write, and I have read and discussed the terms of the foregoing plea agreement with my attorney, Mark S. McDaniel, and am satisfied with my attorney and his advice and counsel. Being aware of all of the possible consequences of my plea, I have independently decided to enter this plea of my own free will, and am affirming that agreement on the date and by my signature below.

6-18-07
DATE SIGNED

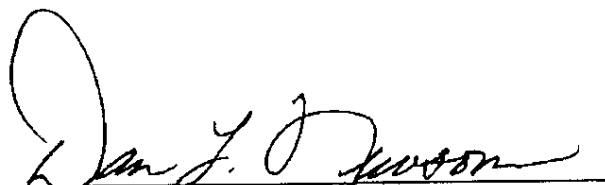
Drayton Beecher Smith
DRAYTON BEECHER SMITH
Defendant

6-18-07
DATE SIGNED

Mark S. McDaniel
MARK S. McDANIEL
Attorney for the Defendant

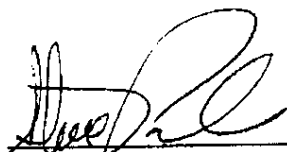
PLEA AGREEMENT OF DRAYTON BEECHER SMITH (Continued)

6/18/07
DATE SIGNED



DAN L. NEWSOM
Senior Litigation Counsel

6-18-07
DATE SIGNED



for VIVIAN R. DONELSON
Chief - Criminal Division

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.)	Criminal No. _____
)	
DRAYTON BEECHER SMITH, II)	18 USC § 2252(a)(2)
)	18 USC § 2252(a)(4)(B)
Defendant.)	18 USC § 2253

INDICTMENT

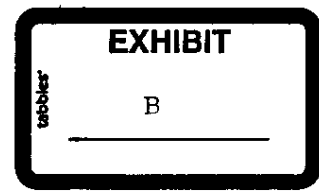
THE GRAND JURY CHARGES:

COUNT 1

Beginning at a date unknown to the Grand Jury, but from at least on or about January 27, 2005, and continuing to on or about January 31, 2005, in the Western District of Tennessee, the defendant,

----- DRAYTON BEECHER SMITH, II -----

knowingly possessed a Compaq Presario 900 laptop computer, Serial Number 9X2AKSBZS16P, which then contained visual depictions (computer image files) designated "McCoy.bmp"; "McCoy2.bmp"; "McCoy3.bmp"; "McCoy4.bmp"; "Austin1.bmp"; "Connie5.bmp"; "Connie7.bmp"; "Jeannie.8bmp.bmp"; "Jeannie.10bmp.bmp"; "Jeannie.11bmp.bmp"; "Kerry8.bmp"; "Kerry9.bmp"; "Ugly2.bmp"; "Ugly4.bmp"; "Vera1.bmp"; which had been shipped and transported in



interstate commerce and which were produced using materials which had been shipped and transported in interstate commerce; the production of each said visual depiction involved the use of a minor engaging in sexually explicit conduct, as defined in Title 18, United States Code, Section 2256, and each said visual depiction is of such conduct; all in violation of Title 18, United States Code, Section 2252(a)(4)(B).

COUNT 2

On or about December 11, 2004, in the Western District of Tennessee, the defendant,

----- **DRAYTON BEECHER SMITH, II** -----

knowingly received visual depictions that had been shipped and transported in interstate commerce by means of a computer and which contained materials which had been shipped and transported in interstate commerce, that is, visual depictions (computer image files), designated "Connie5.bmp" and "Connie7.bmp", the production of each said visual depiction involved the use of a minor engaging in sexually explicit conduct, as defined in Title 18, United States Code, Section 2256, and each said visual depiction is of such conduct; all in violation of Title 18, United States Code, Section 2252(a)(2).

COUNT 3

On or about December 26, 2004, in the Western District of Tennessee, the defendant,

----- **DRAYTON BEECHER SMITH, II** -----

knowingly received visual depictions that had been shipped and transported in interstate commerce by means of a computer and which contained materials which had been shipped and transported in interstate commerce, that is, visual depictions (computer image files), designated "Austin1.bmp", "Jeannie.8bmp.bmp", "Jeannie.10bmp.bmp", and "Jeannie.11bmp.bmp"; the production of each said visual depiction involved the use of a minor engaging in sexually explicit conduct, as defined in Title 18, United States Code, Section 2256, and each said visual depiction is of such conduct; all in violation of Title 18, United States Code, Section 2252(a)(2).

COUNT 4

On or about December 28, 2004, in the Western District of Tennessee, the defendant,

----- **DRAYTON BEECHER SMITH, II** -----

knowingly received visual depictions that had been shipped and transported in interstate commerce by means of a computer and which contained materials which had been shipped and transported in interstate commerce, that is, visual depictions (computer image files), designated "Kerry8.bmp", "Kerry9.bmp", "McCoy.bmp", "McCoy2.bmp", "McCoy3.bmp", and "McCoy4.bmp", the production of each said visual depiction involved the use of a minor engaging in sexually explicit conduct, as defined in Title 18, United States Code, Section 2256, and each said visual depiction is of such conduct; all in violation of Title 18, United States Code, Section 2252(a)(2).

COUNT 5

On or about December 29, 2004, in the Western District of Tennessee, the defendant,

----- **DRAYTON BEECHER SMITH, II** -----

knowingly received visual depictions that had been shipped and transported in interstate commerce by means of a computer and which contained materials which had been shipped and transported in interstate commerce, that is, visual depictions (computer image files), designated "Ugly2.bmp", and "Ugly4.bmp", the production of each said visual depiction involved the use of a minor engaging in sexually explicit conduct, as defined in Title 18, United States Code, Section 2256, and each said visual depiction is of such conduct; all in violation of Title 18, United States Code, Section 2252(a)(2).

COUNT 6

On or about January 4, 2005, in the Western District of Tennessee, the defendant,

----- **DRAYTON BEECHER SMITH, II** -----

knowingly received a visual depiction that had been shipped and transported in interstate commerce by means of a computer and which contained materials which had been shipped and transported in interstate commerce, that is, a visual depiction (computer image file), designated "Vera1.bmp", the production of said visual depiction involved the use of a minor engaging in sexually explicit conduct, as defined in Title 18, United States Code, Section 2256, and said visual depiction is of such conduct; all in violation of Title 18, United States Code, Section 2252(a)(2).

COUNT 7

FORFEITURE ALLEGATIONS

1. The allegations contained in Counts 1 through and including 6 of this Indictment are incorporated by reference as if fully set forth herein.

2. Upon conviction for violating Title 18, United States Code, Section 2252, the defendant, **DRAYTON BEECHER SMITH, II**, shall forfeit to the United States any and all right, title, and interest he has in:

(a) any visual depiction described in Section 2252 of Title 18 United States Code, and any book, magazine, periodical, film, videotape, and other matter which contains any such visual depiction, which was produced, transported, mailed, shipped, or received in violation of the above said statute;

(b) any property, real or personal, constituting or traceable to gross profits of other proceeds obtained from the above said offenses; and

(c) any property, real or personal, used or intended to be used to commit or to promote the commission of the above said offenses, including but not limited to the following:

(1) Compaq Presario 900 laptop computer, Serial Number 9X2AKSBZS16P

All pursuant to Title 18, United States Code, Section 2253.

A TRUE BILL:

David K. ...
UNITED STATES ATTORNEY

[Signature]
FOREPERSON

November 28, 2006
DATE