

FILED
April 24, 2024
BOARD OF PROFESSIONAL RESPONSIBILITY
OF THE
SUPREME COURT OF TENNESSEE
Executive Secretary

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

IN RE: JUDITH-ANNE ROSS ST. CLAIR, DOCKET NO. 2023-3361-4-AW-30.4(d)
BPR No. 034024, PETITIONER,
AN ATTORNEY LICENSED TO PRACTICE
LAW IN TENNESSEE
(COFFEE COUNTY)

HEARING PANEL FINDINGS OF FACT AND CONCLUSIONS OF LAW

INTRODUCTION

This matter came on for hearing before a duly appointed Hearing Panel upon a Petition for Reinstatement filed on October 13, 2023 by the Petitioner, Judith-Anne St. Clair, and upon a Response of the Board of Professional Responsibility to Petition for Reinstatement filed by the Board of Professional Responsibility ("Board") on November 16, 2023.

The hearing on this matter commenced on March 1, 2024, before the Panel consisting of W.I. Howell Acuff, Panel Chair, Trisha L. Henegar, Panel Member, and Megan K. Trott, Panel Member. Present throughout the hearing were the panel members identified above, petitioner, petitioner's counsel, Disciplinary Counsel A. Russell Willis, and the six witnesses present on behalf of petitioner. Upon testimony of Petitioner, the testimony of her witnesses, the evidence

presented, and upon the entire record in this cause, the following findings of fact and conclusions of law are submitted by the Board.

STANDARDS FOR REINSTATEMENT

Tenn. Sup. Ct. R. 9, § 30.4(d)(1) provides, in part,

The hearing committee shall schedule a hearing at which the petitioning attorney shall have the burden of demonstrating by clear and convincing evidence that the petitioning attorney has the moral qualifications, competency, and learning in law required for admission to practice law in this state, 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 clear and convincing standard is higher than a preponderance of the evidence and lower than beyond a reasonable doubt. 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, at 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, "The 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. See Tenn. Sup. Ct. R. 9, § 1.

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:

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, and adherence to and 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.

Moral Qualifications

Ms. St. Clair bears the burden of presenting clear and convincing evidence demonstrating she possesses the moral qualifications to be reinstated to the practice of law. The Tennessee Supreme Court has established guiding factors to determine whether a petitioner possesses the necessary moral qualifications to resume the practice of law in the state. *Milligan v. Board of Prof. Responsibility*, 301 S.W. 3d 619, 631 (Tenn. 2009) (Courts look at various indicators of moral change, including honesty, remorse, and activity during suspension). Remorse and awareness of prior wrongdoing, among other factors, are regularly cited as marks of good moral character, and various jurisdictions have recognized these as appropriate factors to consider in gauging moral character. *Milligan v. Bd. Of Prof'l Responsibility of the Supreme Court of Tenn.*, 301 S.W.3d 619, 631 (Tenn. 2009). Honesty is considered the centerpiece of good moral character, *Id.* At 633, and repayment of restitution and legal fees are also indicative of good moral character. *Hughes v. Board of Prof. Responsibility*, 259 S.W.3d 631, 644 (Tenn. 2008). The moral character requirement requires a showing that the lawyer has undergone a 'moral change' so that the weaknesses that produced the prior conduct have been corrected. *Milligan v. Board of Prof. Responsibility*, 301 S.W.3d 619, 631 (Tenn. 2009) (admitting to the cause of one's failure and correcting that weakness is required).

In determining whether an attorney has adequately demonstrated good moral character, it is appropriate to consider the nature of the activity the attorney engaged in during the period of suspension. *Milligan v. Bd. Of Prof'l Responsibility of the Supreme Court of Tenn.*, 301 S.W.3d at 632. Conclusory statements from witnesses that the attorney has been rehabilitated and is remorseful are insufficient to meet the burden of proving the attorney possesses the moral character to resume the practice of law. *Murphy v. Bd. Of Prof'l Responsibility*, 924 S.W.2d 643, 647 (Tenn. 1996) (conclusory statements of witnesses that the petitioning attorney had paid the price, was remorseful, and had rehabilitated himself were not sufficient proof of the attorney's moral character). It is incumbent upon the attorney seeking reinstatement to the practice of law to present specific facts and circumstances arising since the attorney's conviction that demonstrate rehabilitation or remorse. *Murphy v. Bd. Of Prof'l Responsibility*, 924 S.W.2d at 647.

Competency and Learning in the Law

Ms. St. Clair bears the burden of presenting clear and convincing evidence demonstrating he possesses the current competency and learning in the law required for admission to practice law in Tennessee. It is insufficient to simply offer conclusory testimony that the attorney has done a very good job of staying current in the law or that the attorney was a competent attorney before the disciplinary sanction was imposed. *Culp v. Bd. Of Prof'l Responsibility for the Supreme Court of Tenn.*, 407 S.W.3d 201, 210 (Tenn. 2013). Further, clear and convincing evidence of learning in the law and competency requires more than simply completing the requisite hours of CLE required. *Culp v. Bd. Of Prof'l Responsibility for the Supreme Court of Tenn.*, 407 S.W.3d 201, 210 (Tenn. 2013).

Integrity and Standing of the Bar / Public Interest

Ms. St. Clair bears the burden of presenting clear and convincing evidence demonstrating his reinstatement and resumption of the practice of law in Tennessee would not be detrimental to the integrity and standing of the bar or the administration of justice or subversive to the public interest. See Tenn. Sup. Ct. R. 9, § 30.4(d)(1). Unlike the many factors set out regarding moral qualification, this assessment is more subjective in nature and, on occasion, may be less dependent upon the proof in the record than the sense of professional responsibility and respect the Court, as the final regulatory authority, holds for the society the legal system serves. *Huges v. Board of Prof. Responsibility*, 259 S.W.3d 631, 646 (Tenn. 2008).

Accordingly, the Hearing Panel must determine what impact Ms. St. Clair's reinstatement will have on the integrity and standing of the bar and the public's trust in our system of jurisprudence. The license to practice law is a privilege, not a right. *Murphy v. Bd. Of Prof'l Responsibility*, 924 S.W.2d 643, 647 (Tenn. 1996). The practice of law is a distinct privilege – the more serious the abuse of that privilege, the more onerous the burden of atonement. *Hughes v. Board of Professional Responsibility*, 259 S.W.3d 631, 651 (Tenn. 2009).

FINDINGS OF FACT

In addition to herself, Petitioner presented the testimony of two (2) witnesses and herself in support of her request for reinstatement. Testifying on behalf of Petitioner were Rhonda Bartine, RN MSN PMHNP-BC, and Buddy Stockwell, TLAP Executive Director. Doug Beecham, friend, Rick Taylor, attorney and friend, John St. Clair, father, and Josh Wicks, life partner were present and available to testify. In addition to live testimony, petitioner introduced a number of documents in support of her request for reinstatement. The Board

presented no witnesses but offered evidence during cross-examination of the Petitioner and her witnesses.

Buddy Stockwell, the TLAP Executive Director, was the first witness sworn. During his testimony Exhibit 1 (TLAP Letter of February 22, 2023) and Exhibit 1A (Extension Agreement) were admitted into evidence. Mr. Stockwell testified that Ms. St. Clair has successfully participated in TLAP monitoring since her first three year monitoring agreement on June 14, 2018. She renewed the monitoring three year agreement on August 10, 2021, and as of the date of hearing remained current under that agreement. Mr. Stockwell testified that Ms. St. Clair made the initial contact with TLAP while she was in-patient at Cumberland Heights. She was there for treatment of her substance use disorder, a treatment she successfully completed as evidenced by clean results on sixty three (63) random drug screens since that admission. Mr. Stockwell testified that he has zero concerns about her fitness to practice law. He testified that she has done everything she needs to do and more. Mr. Stockwell testified that he saw no need for further TLAP monitoring. He did recommend that she continue in a recovery program and that she become a peer monitor for TLAP.

Next, Rhonda Bartine, RN MSN PMHNP-BC, was sworn. She testified that she has been a psychiatric nurse practitioner since 2013 and has worked locally with the Recovery Clinic since 2016. Her first encounter with Ms. St. Clair was on January 27, 2020, as part of a continuation of Ms. St. Clair's plan of care. Ms. Bartine testified at length about Ms. St. Clair's awareness of the gravity of her situation and Ms. St. Clair's expressions of remorse, often tearful. Ms. Bartine testified that Ms. St. Clair continues to grow and progress with each session. Ms. Bartine also testified that in the course of treatment a co-morbidity of ADHD had been addressed, which furthered Ms. St. Clair's progress. Ms. Bartine stated that she hoped to continue working with

Ms. St. Clair going forward, in addition to the work that Ms. St. Clair is doing with an outpatient individual therapist, Rebecca Wilson. Ms. Bartine testified that Ms. St. Clair was very aware of the triggers that had been gateways to substance use in the past and was in a far more supportive environment and state of mind to deal with those constructively in future. Ms. Bartine testified that she has been encouraging Ms. St. Clair to pursue reinstatement. Ms. Bartine testified that she has no concerns about Ms. St. Clair returning to the practice of law.

Next, Petitioner was sworn. Ms. St. Clair testified about the events that led to the suspension of her law license. Ms. St. Clair was transparent in describing her addiction and the very poor choices she made to sustain that addiction. Ms. St. Clair was a Division I softball player in college and developed an over-use injury to her throwing shoulder. She was initially prescribed oxycodone legally while living in the State of Florida. After renewing the prescription several times, Ms. St. Clair recognized that she was addicted and actually moved home to Manchester, Tennessee with her parents in 2012 to get clean. Up until that move she was a licensed Florida attorney working as a public defender with the Office of the Public Defender, Sixth Judicial District, Clearwater, Florida. After getting clean on her own in at her parents' home in Manchester, she took a job teaching criminal justice classes at a high school in Manchester, Tennessee.

Ms. St. Clair testified that she resumed opiate use in 2013, following a c-section delivery of her first child. She was legally prescribed hydrocodone at that time. She suffered post-partum depression and began self-medicating. She obtained more opiates from "friends" at first, but eventually began purchasing them illegally.

Ms. St. Clair began working as an attorney in Tennessee in 2015 and was a practicing attorney in Manchester, Tennessee and the general Middle Tennessee area, until the suspension

of her license in this matter was ordered in July of 2018. Her practice covered civil as well as criminal defense cases and she clearly took pride in being able to help her clients. Trauma and bouts of depression and anxiety, led to further self-medication with opiates and the addiction returned in full force. This culminated in April of 2017 with Petitioner being arrested in a sting operation by the Manchester Police Department. She had agreed to accept oxycodone pills in partial payment of legal fees for what she believed was a new client. Based upon the quantity involved and the location chosen by the officers for the transaction, it was booked as multiple felony offenses. The charges were later reduced to a misdemeanor.

Ms. St. Clair immediately and voluntarily entered a nearly month long recovery program at Cumberland Heights. During this program she was not in contact with clients, or anyone else for that matter, and the failures to communicate with clients and to make appearance as well as to pursue cases with diligence occurred, giving rise to the multiple complaints to the Board. Ms. St. Clair testified that she regretted leaving clients in this uncertainty, but that at that moment recovery was a matter of life and death. She has since made full restitution to each of these clients, with the acknowledged backing and assistance of her family. To the extent that these former clients were open to it, she has also reached out directly to apologize.

Ms. St. Clair testified that she has not used opiates at all since the arrest in April of 2017, even though she delivered a second child, who is now four years old. Ms. St. Clair testified that she has learned a tremendous amount about addiction and the triggers that can flare it back up. She has taken significant steps to promote her recovery, including relocating to Rutherford County and cutting ties with the "friends" who previously enabled her addiction. She has also made herself accountable to her parents, her life partner, her therapists, and her mentors. She is now quick to call for help if she is struggling at all, with her original TLAP monitor, Jackie

Dixon, continuing to be in close contact. Her supporters in the hearing room were clearly affirming that they are both empowered and willing to intervene should she need it.

Ms. St. Clair testified that she was interested in returning to a public defender's office. She testified to her efforts to make contact with the Davidson County Public Defender in pursuit of that interest. She did not express an intention to practice law in any other context for now. She remains employed as a Senior Admission Specialist and a Corporate Trainer for Ark Behavioral Health. While she would like to resume her legal career, this work in helping people with recovery has been personally satisfying in the meantime.

With regard to her offenses, Ms. St. Clair acknowledged the crimes she committed to satisfy her addiction. She was transparent on the topic, not seeking to diminish or excuse her conduct. She clearly understands the degree to which her personal conduct fell below acceptable standards and seeks an opportunity to make a renewed professional life an example of what can go right after things have gone so wrong.

Ms. St. Clair testified that she would like to continue with TLAP and looks forward to being a mentor now that her recovery is on a solid footing. She also testified that she intends to continue working with her therapists as both contribute to her personal growth. Ms. St. Clair testified that she is willing to accept any restrictions or conditions the Hearing Panel recommends and the Court approves.

Ms. St. Clair is current with continuing legal education requirements in both Tennessee (Exhibit 6) and Florida (Exhibit 7). The reciprocal disciplinary action in the State of Florida has been closed (Exhibit 8) and she is eligible to practice law in that state. Further, Ms. St. Clair has made all reimbursements called for in the June 20, 2018, Order of Enforcement.

At the conclusion of Ms. St. Clair's testimony, a side bar was held with counsel and it was thereafter stipulated that the remaining witnesses would be cumulative in their support of the petition for reinstatement, their belief in Ms. St. Clair's rehabilitation, and their belief that she would be an asset to the Bar.

The Panel then asked Disciplinary Counsel Willis for any recommendations that the Board might have. His first concern was to have a practice monitor should Ms. St. Clair resume a private practice, with monthly meetings for the first year of such practice and written reports by the monitor to the Board. Should she join a public defender's office, that concern is addressed by the supervision inherent in such position and there would be no recommendation for a practice monitor. Disciplinary Counsel also noted that TLAP had been very helpful for Ms. St. Clair and that he would recommend that she attend the next two Camp TLAP events and continue with the current TLAP agreement in its present form with reporting to the Board.

CONCLUSIONS OF LAW

A license to practice law is a privilege, not a right. *Hughes v. Bd. of Prof'l Responsibility*, 259 S.W.3d 631, 641 (Tenn. 2008). "A person suspended from the practice of law is not entitled to have the privilege restored simply because that person has served the sentence imposed for a violation of the criminal laws." *Id.*, citations omitted. In order to be granted reinstatement to the practice of law in this state, the Petitioner has the burden of demonstrating by clear and convincing evidence that,

the petitioning attorney has the moral qualifications, competency and learning in law required for admission to practice law in this state, 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). The clear and convincing standard is higher than a preponderance of the evidence and lower than beyond a reasonable doubt. 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*, 259 S.W.3d at 642.

Each ground for reinstatement is separate and must be supported by adequate proof. An applicant for reinstatement may have significant proof on one prong, but little or no proof on another which means he does not carry his burden. *Hughes*, 259 S.W.3d at 651 (Tenn. 2008); *Milligan v. Bd. of Prof'l Responsibility*, 301 S.W.3d 619, 630 (Tenn. 2009).

Moral Qualifications

With respect to the requirement that a petitioner for reinstatement demonstrate that she has the "moral qualifications" required to practice law in Tennessee, the Tennessee Supreme Court has noted that, "the evidence necessary to demonstrate that one is morally qualified to practice law in this state requires more than conclusory statements; it should also include 'specific facts and circumstances which have arisen since [one's conviction] that demonstrate either rehabilitation or remorse.'" *Hughes*, 259 S.W.3d at 643 citing *Murphy v. Bd. of Prof'l Responsibility*, 924 S.W.2d 643, 647 (Tenn. 1996).

All of the witnesses before the Panel were knowledgeable concerning the Petitioner's addiction and recovery. Each of these witnesses has been in close and frequent contact with Petitioner during her suspension. The Panel observed the Petitioner and the witnesses as each

testified and found Petitioner and each witness to be credible. Considering the evidence presented as a whole, the Panel finds by clear and convincing evidence that the testimony demonstrated Ms. St. Clair's remorse for her past misconduct and that Ms. St. Clair possesses the moral qualifications to be admitted to the practice of law in Tennessee.

Competency and Learning in the Law

In order to gain reinstatement, Petitioner must prove by clear and convincing evidence that she possesses the legal competency to be admitted to the practice of law. R. 9 § 30 *supra*. Since the entry of the Order of Enforcement suspending her license, Petitioner testified and presented evidence that she has attended and completed sufficient continuing legal education classes to meet the general and ethical requirements set by the Continuing Legal Education Commission, and she had reviewed and studied published opinions by various courts. She has also met these requirements for the State of Florida. The Panel finds, by clear and convincing evidence, that Ms. St. Clair has the legal competency and learning in the law to be admitted to the practice of law in this state.

Impact of Reinstatement on the Integrity and Standing of the Bar, Administration of Justice, and the Public Interest

Determining that reinstatement will not be detrimental to the integrity and standing of the bar, administration of justice, and the public interest, requires consideration not only of the nature of the conduct that led to Petitioner's suspension but the impact, if any, that his reinstatement, in the context of her wrongs, will have on the integrity of and public trust in our system of jurisprudence. *Hughes*, 259 S.W.3d at 646.

Petitioner and her witnesses expressed their firm opinion that Ms. St. Clair was an experienced and well-respected member of the bar prior to her suspension. Petitioner and her

witnesses expressed their firm opinion that Ms. St. Clair, having acknowledged her misconduct and expressed frequent and sincere remorse, was a changed person and unlikely to engage in professional misconduct if she were reinstated to the active practice of law. Considering the testimony as a whole and Petitioner's demeanor before the Hearing Panel, Petitioner's reinstatement to the practice of law is unlikely to be detrimental to the integrity and standing of the bar, administration of justice and the public interest. Accordingly, the Hearing Panel finds by clear and convincing evidence that Petitioner's resumption of the practice of law within the state would not be detrimental to the integrity and standing of the bar or the administration of justice, or subversive to the public interest.

JUDGMENT

Based on these findings of fact and conclusions of law, the Hearing Panel finds by clear and convincing evidence that Petitioner has met all of the requirements of Rule 9 of the Supreme Court for reinstatement to the practice of law in the State of Tennessee. Accordingly, the Panel recommends Ms. St. Clair be reinstated to the active practice of law, with the following conditions:


1. In the event Ms. St. Clair engages in the private practice of law, at her own expense she shall retain a practice monitor for a period of one (1) year, with not less than monthly meetings. The practice monitor shall provide written reports to the disciplinary counsel once every three months. However, Ms. St. Clair shall not be required to retain a practice monitor should her practice of law be exclusively with a public defender's office.

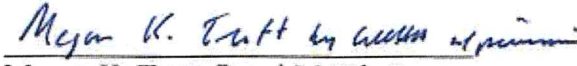
2. That Ms. St. Clair continue with and completes her current agreement with TLAP, follow all recommendations thereof, and that she authorize the Board to communicate with and access the records of TLAP to verify her compliance therewith. /
3. That Ms. St. Clair attend the next two Camp TLAP events, actively participates in the meetings and events therein, and that she authorizes the Board to communicate with and access the records of TLAP to verify her compliance therewith.
4. That Ms. St. Clair continue with one or more of her therapists for not less than one (1) year, and that she authorize the Board to communicate with said therapist(s) to verify her compliance therewith.
5. That Ms. St. Clair complete yearly a minimum of fifteen (15) hours of Continuing Legal Education, including at least three (3) hours of legal ethics, as long as she remains licensed.
6. That Ms. St. Clair pay all remaining costs affiliated with her reinstatement, if any.
7. That Ms. St. Clair incur no new disciplinary complaints on which the Board recommends disciplinary action during the remainder of her probationary period.

In accordance with Tenn. Sup. Ct. R. 9, § 31.3, the Board shall prepare and file an application for costs within fifteen (15) days of the entry of this judgment.

SO ORDERED, this 24th day of April, 2024.

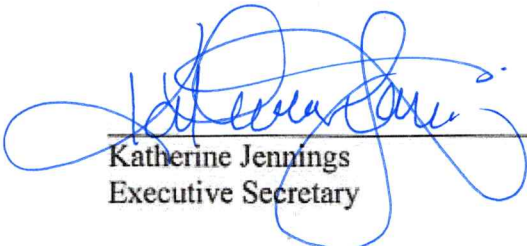

W. I. Howell Acuff, Panel Chair


Trisha L. Henegar, Panel Member


Megan K. Trott, Panel Member

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing has been sent to Petitioner, Judith-Anne Ross St. Clair, through her counsel, Frank Ross Brazil, Brazil Clark, PLLC, 2901 Dobbs Ave., Nashville, TN 37211, by U.S. First Class Mail, and hand delivered to A. Russell Willis, Disciplinary Counsel, on this 25th day of April, 2024.


Katherine Jennings
Executive Secretary

NOTICE

This judgment may be appealed by filing a Petition for Review in the appropriate Circuit or Chancery Court in accordance with Tenn. Sup. Ct. R. 9, § 33.