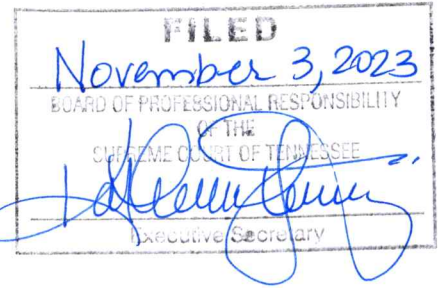


**IN DISCIPLINARY DISTRICT IX
OF THE
BOARD OF PROFESSIONAL RESPONSIBILITY
OF THE
SUPREME COURT OF TENNESSEE**



IN RE: MONICA AISLYNN TIMMERMAN, Docket No. 2023-3352-9-AW-12.3
BPR No. 031536, Petitioner,
An Attorney Licensed and
Admitted to the Practice of
Law in Tennessee
(Shelby County)

**PANEL REPORT AND RECOMMENDATION REGARDING PETITION FOR
DISSOLUTION OF ORDER OF TEMPORARY SUSPENSION**

This matter came to be heard before this Panel of the Board of Professional Responsibility of the Supreme Court of Tennessee ("Panel") on October 31, 2023, pursuant to Rule 9 of the Rules of the Supreme Court of Tennessee, to address the Petition for Dissolution of an Order for Temporary Suspension filed by Petitioner, Monica Aislynn Timmerman ("the Petition"). With the consent of the parties and the Panel, the hearing was conducted via video conference. This Panel, after considering the Petition, the Response to Petition for Dissolution of Order of Temporary Suspension filed by the Board of Professional Responsibility of the Supreme Court of Tennessee ("the Board"), testimony of Ms. Timmerman, testimony of witnesses, and the entire record in this cause, and after thorough deliberations, makes the following Report and Recommendation, as ordered by the Supreme Court of Tennessee (the "Court"):

PROCEDURAL HISTORY

1. Ms. Timmerman is an attorney admitted by the Supreme Court of Tennessee to practice law in the State of Tennessee.

2. On September 25, 2023, the Board filed a Petition for Temporary Suspension alleging Ms. Timmerman failed to substantially comply with a Tennessee Lawyer Assistance Program monitoring agreement and posed a threat of substantial harm to the public as detailed in an Affidavit of J.E. "Buddy" Stockwell III of the Tennessee Lawyers Assistance Program.

3. On September 25, 2023, the Board filed a Motion to File Exhibits Under Seal.

4. On September 27, 2023, the Court entered an Order of Temporary Suspension, suspending Ms. Timmerman from the practice of law.

5. On September 27, 2023, the Court entered an Order Granting the Board's Motion to File Exhibits Under Seal.

6. On October 11, 2023, Ms. Timmerman filed a Petition for Dissolution of her temporary suspension with six exhibits, including a Declaration of Compliance with Tenn. Sup. Ct. R. 9, § 28.

7. On October 17, 2023, the Chair of the Board of Professional Responsibility of the Supreme Court of Tennessee assigned this Panel to serve in the above styled matter.

8. On October 31, 2023, a hearing was held to consider Ms. Timmerman's Petition. Attorneys Lucian T. Pera and John D. Woods, III appeared on behalf of the Petitioner Ms. Timmerman. Deputy Chief Disciplinary Counsel Russell Willis appeared on behalf of the Board of Professional Responsibility. At the hearing, Petitioner called J.E. "Buddy" Stockwell III as a witness and Ms. Timmerman also testified. Petitioner introduced one exhibit; an October 30, 2023, letter of support from Lessie Lee Calhoun Rainey which was admitted into evidence without objection. Both witnesses were subject to cross-examination and responded to questions from panel members. No other witnesses were called.

FINDINGS OF FACT

9. Monica Aislynn Timmerman (“Petitioner”) is an attorney licensed to practice law in the State of Tennessee whose address, as registered with the Board, is 201 Poplar Ave., 11th Floor, Memphis, TN 38103-1945, being in Shelby County and Disciplinary District IX.

10. After several years in private practice, Petitioner transitioned into public service as an Assistant District Attorney for the Shelby County District Attorney’s Office in Memphis, Tennessee, in November 2022. In addition to being a practicing attorney, Petitioner is a single mother of three children, two of whom are minors, and she lives with both her mother and eldest child. She has become a skilled assistant district attorney and she has earned the respect and plaudits of her colleagues. (Letter C. Ostner, attached as Exhibit 1 to Petition; Letter R. Lepone, attached as Exhibit 2 to Petition.)

11. On December 7, 2022, Petitioner was on her way home from an office holiday party when she was involved in a single-vehicle accident and was subsequently arrested and charged with driving under the influence. Petitioner testified that she has not had an alcoholic beverage since the date of the incident.

12. Petitioner self-reported the incident and charge to the Board of Professional Responsibility (“Board”) on December 12, 2022. (Attached as Exhibit 3 to Petition.) The Board opened an investigation based on this self-report, and that investigation remains open. She also voluntarily reached out to TLAP.

13. On February 8, 2023, Ms. Timmerman entered a plea of guilty and was adjudged guilty of Driving Under the Influence (DUI), a Class A misdemeanor, in State of Tennessee v. Monica Timmerman, Docket No. 22024864, General Sessions Criminal Court of Shelby County, Tennessee. Pursuant to the Order of Probation, Ms. Timmerman was ordered to undergo a drug

and alcohol evaluation and obtain treatment if required. Certified copies of the Order Accepting Plea of Guilty, Judgment and Mitimus Writ of Confinement, Order of Sentence, and Order of Probation are attached as Exhibit 1 to Petition for Suspension.

14. As part of her probation, Petitioner is paying restitution for the damage she caused and was ordered to attend drug and alcohol evaluation and treatment, with which she complied. Despite her position as an ADA, Respondent asked for no special favors and accepted the same treatment of any other first-time DUI offender. (See Exhibit 1 to Petition for Suspension.)

15. On April 18, 2023, the Board of Professional Responsibility (Board) formally referred Petitioner to the Tennessee Lawyer Assistance Program (TLAP) pursuant to Tenn. Sup. Ct. R. 33.07(A). A true and exact copy of the Board's referral letter dated April 18, 2023, was filed under seal as Exhibit 2 to Petition for Suspension.

16. On May 10, 2023, Respondent voluntarily entered into a TLAP Preliminary Evaluation and Assessment Monitoring Agreement. Notably, the "Voluntary Monitoring Agreement" is initialed by Respondent and "Monitoring Agreement with mandatory reporting to a disciplinary or licensing authority" box is checked (but not similarly initialed). (The Monitoring Agreement is attached as Exhibit 3 to the Petition for Temporary Suspension.)

17. Pursuant to the Monitoring Agreement, Respondent submitted to a TLAP-Approved Multi-Day Assessment on June 19 and 20, 2023, conducted by the Multidisciplinary Comprehensive Assessment Program (MCAP) of Chicago. The Assessment recommended that Respondent be admitted to a "residential treatment program for professionals." (The MCAP Assessment is attached to the Petition for Temporary Suspension as Exhibit 6, at 16.) Although not specifically stated, it was understood that the program would last anywhere from thirty to ninety days. Notably, although the Assessment opines that Respondent is "only safe to practice

law” if she engages in the recommended treatment, her direct supervisor reports that, since January 2023, her “personal issues” have “not affected her ability to perform her job responsibilities.” (Exhibit 1 to Petition.) Her direct supervisor indicates that she has “demonstrated an extraordinary work ethic and capacity to perform the duties of an assistant district attorney.” (Exhibit 1 to Petition.)

18. After her TLAP-recommended assessment, TLAP provided Petitioner with its list of recommended programs, the average cost of which was \$28,000 for the first thirty-days, which is approximately one-third of Petitioner’s gross annual salary. The least expensive TLAP-recommended program charged \$20,000, of which \$12,000 was required up front. If the facility were to recommend an extended period of residency, based on the progress of her treatment once underway, the cost would have been greater. Petitioner simply did not have the money and so informed TLAP via email (Exhibit 5 to Petition for Suspension).

19. TLAP forwarded Petitioner’s email to the Board of Professional Responsibility, which then filed the Petition for Temporary Suspension, leading to Petitioner’s suspension. (Exhibit 5 to Petition for Suspension).

20. On September 5, 2023, Mr. Stockwell provided the Board with relevant portions of the MCAP evaluation and discharge summary reflecting the findings and recommendations of the MCAP clinicians and formally notified the Board that Petitioner declined to cooperate with TLAP’s recommendations and was non-compliant with her Monitoring Agreement. A true and exact copy of the September 5, 2023, email from J.E. "Buddy" Stockwell, III was filed under seal as Exhibit 5 to the Petition for Suspension. A true and exact copy of the MCAP evaluation and discharge was filed as Exhibit 6 to the Petition for Suspension).

21. The Disciplinary Counsel argued that Petitioner was substantially non-compliant

with a Tennessee Lawyers Assistance Program (TLAP) monitoring agreement and posed a risk of substantial harm to the public as detailed by the Declaration of J. E. "Buddy" Stockwell, III, attached hereto as Exhibit 7 to the Petition for Suspension.

22. On September 27, 2023, the Court entered an Order of Temporary Suspension, suspending Ms. Timmerman from the practice of law.

23. After Petitioner was advised of her temporary suspension, TLAP offered assistance to Petitioner in obtaining access to one of the same recommended residential treatment programs at a dramatically reduced cost. TLAP's Executive Director, after substantial and commendable personal effort, obtained an agreement with one of the recommended programs to permit Petitioner to attend on a partial hospitalization/extended care basis and at a reduced cost of about \$6,000 for a thirty-day treatment period. Petitioner immediately began this thirty-day treatment program, on Friday, September 29, 2023. She successfully completed the program and was discharged on October 27, 2023.

24. At the October 31, 2023, Hearing Mr. Stockwell testified that Petitioner had signed a new monitoring agreement with TLAP and that she is in full compliance with the agreement. Mr. Stockwell further testified that Petitioner had completed the recommended residential treatment program. Therefore, based on Petitioner's execution of a new monitoring agreement, her compliance with the agreement, and her successful completion of the recommended residential treatment program, Mr. Stockwell believes that at this time Petitioner is safe to practice law and that she does not pose a substantial threat of harm to the public.

25. Petitioner also testified that her employer and colleagues were supportive of her and that she has and will utilize local support groups like Lawyers in Recovery and the local AA Chapter. Petitioner also testified that her mother is a trained substance abuse counselor which

provides her with additional support at home. Petitioner further testified that she had not consumed an alcoholic beverage since the date of the accident.

CONCLUSIONS OF LAW

26. Ms. Timmerman is seeking the dissolution of the Tennessee Supreme Court's September 27, 2023, Order of Temporary Suspension. Tennessee Supreme Court. Rule 9, § 12.3(d) states that, "[t]he attorney may for good cause request dissolution or amendment of any such order of temporary suspension by filing ... a petition for dissolution or amendment."

27. The Panel finds Ms. Timmerman efforts to seek treatment through the assistance of TLAP to be quite laudable. In fact, it appears from the testimony of Mr. Stockwell and Ms. Timmerman that she has done everything asked of her to address this issue and she has made commendable commitments to continue addressing her history of addiction, including completion of a residential treatment program and execution of a new monitoring agreement with TLAP which she is in compliance with.

28. Ms. Timmerman submitted a Declaration of compliance with Tenn. Sup. Ct. R. 9 § 28 (Exhibit 6 to Petition). The Panel finds that Ms. Timmerman has established that good cause exists to grant her Petition.

RECOMMENDATION

29. Based upon the facts shown at the hearing, the Panel recommends that Ms. Timmerman's Petition for Dissolution be granted and that her temporary suspension be lifted since there are no pending disciplinary charges.

Entered this 3rd day of November 2023.

/s/ Joseph Gregory Grisham
Joseph Gregory Grisham, Panel Chair

/s/ Floyd Flippin

Floyd Flippin

/s/ Jody Pickens

Jody Pickens
