

IN THE SUPREME COURT OF TEXAS

Misc. Docket No. 98- 9204

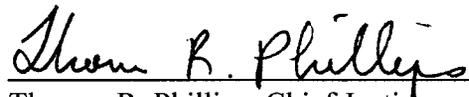
ORDER REVOKING PROBATIONARY LICENSE

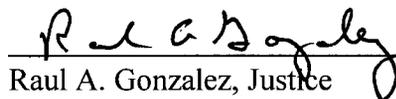
ORDERED:

The probationary license issued to JOHN D. BMMEL is revoked, pursuant to the recommendation contained in the attached order of the Board of Law Examiners.

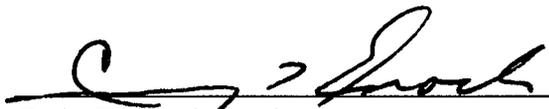
This order shall be effective immediately.

SIGNED on this 1st day of December, 1998.


Thomas R. Phillips, Chief Justice


Raul A. Gonzalez, Justice


Nathan L. Hecht, Justice


Craig T. Enoch, Justice


Rose Spector, Justice


Priscilla R. Owen, Justice


James A. Baker, Justice


Greg Abbott, Justice


Deborah G. Hankinson, Justice

BOARD OF LAW EXAMINERS

IN THE MATTER OF
JOHN D. BAMMEL

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IN PUBLIC HEARING AT
AUSTIN, TEXAS

ORDER

On September 11, 1998, a three member panel of the Board of Law Examiners ("Board"), with Albert Witcher presiding, heard the matter of John D. Bammel. The Board was represented by Bruce Wyatt, Staff Attorney. Mr. Bammel, although advised of his right to counsel, elected to appear pro se. The Board considered, among other things, whether Mr. Bammel possesses the present good moral character required for admission to the practice of law in Texas.

I.

PROCEDURAL HISTORY

Mr. Bammel first appeared in a hearing before the Board in January of 1995. Following that hearing, the Board conditionally approved his good moral character and fitness and recommended Mr. Bammel for a probationary license, subject to his compliance with certain conditions. Mr. Bammel began to practice under that probationary license, but failed to abide by its terms. Mr. Bammel next appeared in a hearing in September of 1995. Following that second hearing, the Board found that Mr. Bammel had violated the conditions of his probationary license, but recommended him for a second probationary license, subject to amended conditions. Mr. Bammel next appeared in a hearing before the Board in October of 1997. Following that third hearing, the Board found that Mr. Bammel had violated the conditions of his second probationary license, but recommended him for a third probationary license, subject to amended conditions.

On August 18, 1998, following a review of Mr. Bammel's non-compliance with the conditions of his third probationary license, the Board sent Mr. Bammel proper and timely notice of this hearing. The notice letter stated that the general issues to be considered at the hearing were: 1) whether Mr. Bammel had failed to comply with one or more of the conditions of his third probationary license; 2) if so, whether the Board

should recommend that his probationary license be revoked; and 3) if so, whether he lacks the good moral character or fitness required for admission

II.

JURISDICTION

The Board has jurisdiction over this matter pursuant to V.T.C.A., Government Code, Sections 82.004, 82.022, 82.027, 82.028, and 82.030 as well as Rules II, IV, IX, X, XV, XVI, and XX of the Rules Governing Admission to the Bar of Texas, adopted by the Supreme Court of Texas, effective May 15, 1997.

III.

FINDINGS OF FACT

After considering the evidence and testimony, the Board finds:

1. Following a hearing in January of 1995, the Board conditionally approved Mr. Bammel's good moral character and fitness and recommended him for a probationary license, subject to certain conditions (B.E.3 at 1).
2. Following a second hearing in September of 1995, the Board found that Mr. Bammel had violated conditions 1 and 7 of his probationary, but recommended him for a second probationary license, subject to amended conditions (B.E.3 at 2-3).
3. Following a third hearing in October of 1997, the Board found that Mr. Bammel had violated conditions 9, 14, and 19 of his probationary license, but recommended him for a third probationary license, subject to amended conditions (B.E.1 at 4-6).
4. On or about August 18, 1998, the Board gave Mr. Bammel proper and timely notice, by certified mail return receipt requested and first class mail, of a September 11, 1998 hearing (B.E.1 at 1).
5. Mr. Bammel has failed to comply with condition 17 of his third probationary license, as evidenced by his failure to file a properly completed periodic questionnaire by either the original deadline, or by the extended deadlines, established by the Board (B.E.1 at 8 and B.E.4 at 2, 3, 5, and 11).
6. Mr. Bammel's failure to comply with condition 17 of his third probationary license is indicative of the character trait of a lack of trustworthiness in carrying out responsibilities, especially given that he has failed to comply with previous deadlines established by the Board (B.E.1 at 5).

7. Mr. Bammel has failed to comply with condition 7 of his third probationary license, as evidenced by his failure to contact his attorney monitor by phone as required, in lieu of weekly meetings, during two consecutive reporting periods (B.E.5 at 3 and 5).
8. Mr. Bammel's failure to comply with condition 7 of his third probationary license during two consecutive reporting periods is indicative of the character trait of a lack of trustworthiness in carrying out responsibilities, especially given that his attorney monitor told him following his initial non-compliance that his excuse was unacceptable (B.E.5 at 4).
9. Mr. Bammel has failed to comply with condition 4 of his third probationary license as evidenced by his failure to comply with conditions 17 and 7 of his third probationary license and by his failure to respond promptly to inquiries from the Board and his attorney monitor (B.E.4 at 6, 8, and 10 and B.E.5 at 3).
10. Mr. Bammel's failure to comply with condition 4 of his third probationary license is indicative of the character trait of a lack of trustworthiness in carrying out responsibilities.
11. Mr. Bammel testified at his hearing before the Board that he has failed to comply with conditions 14 and 21 of his third probationary license, as evidenced by his failure to make each of his agreed upon student loan payments and by his failure to report that fact promptly to the Board (B.E.1 at 8 and E-1).
12. Mr. Bammel's failure to comply with conditions 14 and 21 of his third probationary license is indicative of the character traits of financial irresponsibility and a lack of trustworthiness in carrying out responsibilities.
13. Mr. Bammel's third probationary license order provides that his probationary license may be revoked at any time upon recommendation of the Board if, after notice and hearing, it is determined that he has violated any condition of the order (B.E.1 at 9).

V.

CONCLUSIONS OF LAW

1. There is a clear and rational connection between Mr. Bammel's lack of trustworthiness in carrying out responsibilities, as evidenced by his failure to comply with condition 17 of his probationary license, as found herein, and the likelihood that he would harm a client, obstruct the administration of justice, or violate the Texas Disciplinary Rules of Professional Conduct if he continues to be licensed to practice law at this time.
2. There is a clear and rational connection between Mr. Bammel's lack of trustworthiness in carrying out responsibilities, as evidenced by his failure to comply with condition 7 of his probationary license, as found herein, and the likelihood that he would harm a client, obstruct the administration of justice, or violate the Texas Disciplinary Rules of Professional Conduct if he continues to be licensed to practice law at this time.
3. There is a clear and rational connection between Mr. Bammel's lack of trustworthiness in carrying out responsibilities, as evidenced by his failure to comply with condition 4 of his

probationary license, as found herein, and the likelihood that he would harm a client, obstruct the administration of justice, or violate the Texas Disciplinary Rules of Professional Conduct if he continues to be licensed to practice law at this time.

4. There is a clear and rational connection between Mr. Bammel's financial irresponsibility and lack of trustworthiness in carrying out responsibilities, as evidenced by his failure to comply with conditions 14 and 21 of his probationary license, as found herein, and the likelihood that he would harm a client, obstruct the administration of justice, or violate the Texas Disciplinary Rules of Professional Conduct if he continues to be licensed to practice law at this time.
5. Mr. Bammel's probationary license should be revoked due to his failure, as found herein, to comply with the conditions of that license.

IT IS THEREFORE ADJUDGED, ORDERED AND DECREED that Mr. Bammel has failed to comply with one or more of the conditions of his probationary license, that the Board recommend to the Supreme Court of Texas that Mr. Bammel's probationary license be revoked due to such failure, and that such failure indicates that Mr. Bammel lacks the present good moral character required for admission.

IT IS FURTHER ORDERED that Mr. Bammel may petition the Board for a redetermination of his character and fitness following a period of one year from the date of the Supreme Court's revocation of his probationary license, and that any such petition for redetermination shall be accompanied by the application and supplemental investigation forms then in effect and all appropriate fees.

IT IS FURTHER ORDERED that, upon Mr. Bammel's proper and timely filing of any future petition for redetermination, application, and supplemental investigation form, the Board's determination as to his character and fitness at that time shall include an investigation as to whether he has complied with the following guidelines.

VI.

CURATIVE MEASURES

1. Mr. Bammel shall commit no offense against the laws of this state, any other state, or the United States.
2. Mr. Bammel shall work faithfully at suitable employment as far as possible.

3. Mr. Bammel shall conduct himself in such a way so as to avoid, and not be subject to disciplinary action for, the breach of any regulation, rule, or statute governing any profession in which he may be engaged.
4. Mr. Bammel shall not engage in any conduct that evidences a lack of good moral character or fitness.
5. Mr. Bammel shall remain abstinent from the use of alcohol and other mind-altering drugs, except when such drugs are prescribed by a treating physician and taken in accordance with such prescription.
6. Mr. Bammel shall make his each of his payments to his student loan and other creditors on time, to the best of his ability.
7. Mr. Bammel shall become involved in positive activities to demonstrate his rehabilitation from the findings of the Board. Such activities may include participation in religious, civic, or community affairs.

IT IS FURTHER ORDERED that in the event Mr. Bammel submits a petition for redetermination, application, and supplemental investigation form, the burden of proof shall be on him to present evidence addressing not only any character and/or fitness issues covered in this Order, but also any new issues which arise out of the investigation of his petition for redetermination and supporting documents.

SIGNED this 20th day of September, 1998.


Albert Witcher, Presiding Chair