

IN THE MATTER OF
JAMES P. DAVIS, P.T.
LICENSE NO. 14612
RESPONDENT

* BEFORE THE
* STATE BOARD OF PHYSICAL
* THERAPY EXAMINERS
* Case No. 08-53

* * * * *

FINAL ORDER

Procedural Background

On May 21, 2008, the Maryland Board of Physical Therapy Examiners (the "Board") sent the Respondent, James Patrick Davis, P. T., a Notice of Intent to Revoke the Respondent's physical therapy license with an opportunity to request hearing within thirty (30) days. On June 13, 2008, the Board received Mr. Davis' timely written request for a hearing. On October 21, 2008, the Board held an evidentiary hearing before a quorum of the Board, in accordance with the Maryland Administrative Procedure Act, Md. Code Ann., State Gov't § 10-201 *et seq.*, and the Board's regulations, COMAR 10.38.05. The Respondent is currently incarcerated at the Federal Correctional Institute in Cumberland, Maryland. Therefore, the Board permitted the Respondent to participate in the proceedings via telephone.

SUMMARY OF THE EVIDENCE

A. Documents.

The following documents were admitted into evidence.

- State's Exhibit No. 1 - Computer Printout of Licensure Information

- State's Exhibit No. 2 - Swain Complaint, dated 11/1/07

- State's Exhibit No. 3 - Bures Investigative Report, with attachments
- State's Exhibit No. 4A - Notice of Intent to Revoke, dated 5/21/08
B - 6/10/08 Request for Hearing
C - 6/26/08 Hearing Notice
- Respondent's Ex. No. 1 - Letter of Respondent, dated October 1, 2008

B. Witness Testimony.

State's Witnesses:

Ernest Bures, Investigator, Board of Physical Therapy Examiners

Respondent's Witnesses:

James Patrick Davis, P.T. – via telephone

FINDINGS OF FACT

Based upon the evidence admitted into the administrative record of this matter, the Board finds the following:

1. At all times relevant hereto, the Respondent was licensed to practice physical therapy in Maryland. The Respondent was first licensed on June 30, 1977. The Respondent's license expired on May 31, 2008. (State's Ex. 1)
2. At all times relevant hereto, the Respondent was employed as a physical therapist at Holy Cross Homecare and Hospice in Silver Spring, Montgomery County, Maryland. (State's Ex. 2)
3. On or about November 1, 2007, the Board received information that the Respondent had been arrested in May 2007 by federal authorities after an incident

involving assault with a deadly weapon and that he had accepted a plea agreement for second degree attempted murder. The complaint stated that the Respondent would be sentenced in January 2008. (State's Ex. 2)

4. As a result of this complaint, the Board began an investigation, which disclosed the following:

- A. The Respondent, while married, had an affair with the victim. The victim had recently ended the affair, which caused the Respondent to suffer from depression; (Respondent's Ex. 1; State's Ex. 3, Bates 36; T. 32)
- B. On May 9, 2007, the victim agreed to meet the Respondent on a bridge in the Patuxent Research Refuge and Wildlife Center, a federally-owned park in Prince George's County; (State's Ex. 3, Bates 14)
- C. When the victim met the Respondent, he stabbed her repeatedly in the neck and chest with a knife that he used in his physical therapy practice, almost killing her. (State's Ex. 3, Bates 14, 31; T. 40) While still with the victim, the Respondent called 911 from a cell phone, but did not give the specific location of the victim. (State's Ex. 3, Bates 20) The Respondent states that the cell phone fell into the lake during the commotion; (T. 34)
- D. The Respondent then left the victim on the bridge and went towards the visitor's center. At the center, the Respondent advised some visitors that there was a woman on the bridge who was bleeding. (State's Ex. 3, Bates 14) Thereafter, the Respondent left and immediately went to Holy Cross Hospital to have the wounds in his hand tended to. (T. 36)
- E. The Respondent thereafter sought emergency psychiatric treatment at Sibley Hospital in Washington, D.C. The Respondent was arrested for his assault of the victim while at Sibley Hospital. (T. 36, 44)
- F. The park ranger located the victim who was flown to Shock Trauma in Baltimore. (State's Ex. 3, Bates 14, 43) The victim survived the assault but has endured five surgeries and is unable to speak well, and suffers from post traumatic stress disorder. (State's Ex. 3, Bates 26-27, 31-32)

- G. On January 9, 2008, the Respondent pled guilty to attempted murder and was sentenced by Federal Judge Alexander Williams, Jr. to 97 months, followed by three years of supervised Probation, with no contact with the victim. While on supervised Probation, the Respondent was also ordered to satisfactorily participate in a mental health treatment program approved by the Probation Officer and to pay a special assessment fee of \$100. (State's Ex. 3, Bates 16-21)

OPINION AND SANCTION

The violent and criminal actions of the Respondent warrant the Board's most stringent sanction of revocation. As a physical therapist, the Respondent has trained and practiced in a profession focused on rehabilitating individuals with pain and injuries. Despite that training and experience, on May 9, 2007, the Respondent viciously and repeatedly stabbed a defenseless woman with whom he had a previous romantic relationship. The fact that the Respondent's weapon was a pocket knife that he typically utilized in his physical therapy practice makes the act even more despicable. Although the Respondent claims not to recall the actual act of stabbing the victim, he clearly remembers events leading up to the stabbing, and he remembers leaving the victim at the scene in order to obtain treatment for his own injuries sustained from the incident. The Board finds, pursuant to the police report admitted into evidence, that the Respondent notified people at the visitor's center of the victim's location before running off. However, this deed does not negate or mitigate the Board's finding that the Respondent's violent acts almost killed this woman but for heroic medical intervention.

The Board believes that the Respondent, through his actions, has forfeited his right to practice physical therapy at the present time. Although the Respondent claims that he

is remorseful for his actions, the Board believes that remorse alone is not sufficient to remedy the damage the Respondent has tolled on the victim, the public, and the physical therapy profession.

CONCLUSIONS OF LAW

Based upon the foregoing findings of fact and opinion, the Board concludes that the Respondent be sanctioned in accordance with Health Occupations Article §§ 13-316(6).

ORDER

Based on the foregoing Findings of Fact, Opinion, and Conclusion, by a unanimous decision of a quorum of the Board it is hereby:

ORDERED that the Respondent's license to practice physical therapy be REVOKED for a minimum of FIVE (5) YEARS; and be it further,

ORDERED that the Respondent may petition the Board for reinstatement after five (5) years at which time the Board may, at its discretion, reinstate the Respondent's license based upon its assessment of the Respondent's professional and ethical competency; and be it further,

ORDERED that this is a final order of the Maryland Board of Physical Therapy Examiners and as such is a **PUBLIC DOCUMENT** pursuant to Md. Code Ann., State Gov't Art., §§10-611, *et seq.*

December 16, 2008
Date


Margery Rodgers, P.T.
Chair

NOTICE OF RIGHT TO APPEAL

Pursuant to Md. Code Ann., Health Occ. Art., §13-318, you have the right to take a direct judicial appeal. A petition for appeal shall be filed within thirty days of your receipt of this Final Decision and Order and shall be made as provided for judicial review of a final decision in the Maryland Administrative Act, Md. Code Ann., State Gov't Art., §§10-201, *et seq.*, and Title 7, Chapter 200 of the Maryland Rules.