

**FILED**  
AUG 24 2004  
STATE BAR COURT  
CLERK'S OFFICE  
LOS ANGELES

THE STATE BAR COURT  
HEARING DEPARTMENT - LOS ANGELES

**PUBLIC MATTER**

In the Matter of  
**SHERE' R. BAILEY,**  
**Member No. 153525,**  
A Member of the State Bar.

Case No. 04-V-12699-RAH

**DECISION**

**I. INTRODUCTION**

The issue in this matter is whether Shere' R. Bailey ("Petitioner") has demonstrated to the satisfaction of this Court, her rehabilitation, present fitness to practice, and present learning and ability in the general law so that she may be relieved from her actual suspension from the practice of law pursuant to standard 1.4(c)(ii) of the Standards for Attorney Sanctions for Professional Misconduct ("standard 1.4(c)(ii)") located in Title IV, Rules of Procedure of the State Bar ("rule(s)").

For the reasons set forth in this Decision, the Court finds that Petitioner has shown by a preponderance of evidence that she has satisfied the requirements of standard 1.4(c)(ii). Therefore, the Court grants the Petition to be Relieved from Actual Suspension.

**II. PROCEDURAL HISTORY**

On June 15, 2004, Petitioner, through her counsel, Michael G Gerner, filed a Verified Petition to be Relieved from Actual Suspension ("Petition"). On July 29, 2004, the State Bar of California, by Charles A. Murray, filed a Response to the Petition, indicating that it did not oppose the Petition.

1 No hearing was held.<sup>1</sup>

2 **III. JURISDICTION.**

3 Petitioner was admitted to the practice of law in California on June 19, 1991, and at all  
4 times mentioned herein, has been a member of the State Bar of California.

5 **IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW.**

6 **A. Background**

7 Petitioner has faced challenges in life far greater than most persons of her age. She was born  
8 in South Central Los Angeles and abandoned by her father at the age of three. Her mother never  
9 spoke again of the day Petitioner's father simply left and never returned. Her mother worked as a  
10 nurse for a doctor, earning a little above minimum wage. The family faced frequent financial  
11 challenges.

12 In 1965, Petitioner's mother met another man who seemed to be able to provide her with the  
13 financial security she lacked. However, this security came with a price to the family, because he  
14 began to sexually abuse Petitioner. This abuse began when she was four years old, and continued  
15 through Petitioner's childhood and into her teenage years. Although she called the Department of  
16 Child Services, at that time they did not come out and investigate her complaints. Because of the  
17 abuse, she had difficulty sleeping at night.

18 While her home life was filled with fear, she found a sanctuary at school, where she  
19 "regained her spirit" and "loved to learn." She earned straight "A" grades and was placed into an  
20 academically enriched program. With other classmates, she created an elementary school newspaper  
21 called the Russell Times. As a result of her talent for writing, she was chosen to spend a month in  
22 Mexico as an exchange student, and was later chosen as an ambassador for all the other exchange  
23 students. Her academic success continued into junior high school, where she was voted most  
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25 <sup>1</sup>Pursuant to rule 638, a decision in this matter ordinarily should have been filed 15 days  
26 after the State Bar's response was filed, that is, on August 13, 2004. However, other  
27 circumstances justifying otherwise exist, including the Court being "dark" during much of that  
28 time as well as the navigation of procedural complexities in this and the related original  
proceeding (Supreme Court case no. S097551 [State Bar Court case nos. 98-O-01442; 98-O-  
03538]) in which a motion to terminate actual suspension pursuant to rule 205 is pending.

1 popular, best personality and homecoming queen. However, despite her academic honors, she was  
2 the only student who did not have a parent or friend attend her 9th grade graduation.

3         Petitioner attended church and her faith helped her get through the difficult times she faced.  
4 However, even in that environment, she faced deacons, Sunday School teachers and others who took  
5 advantage of her vulnerability. Unlike other children, she lacked the protection provided by active  
6 parental involvement in her life.

7         At the age of 15, Petitioner began to seek the protection she lacked by joining the Eastside  
8 Crips gang. As a result of this affiliation, her mother required that Petitioner move out of the family  
9 home. During her junior and senior years of high school, therefore, she lived on the street or  
10 wherever she could find a place to sleep.

11         Her love for education continued, however. Even while a member of the gang, she attended  
12 advanced placement classes at California State University, Los Angeles. In a horrible juxtaposition  
13 of life roles, she worked as a pre-school teacher by day, and participated in gang activities involving  
14 guns, drugs, and thefts at night. Despite this yin and yang existence, she applied to college, and was  
15 accepted at University of California, Davis in 1980.

16         When she arrived in rural Davis, California, she learned that her Black English dialect was  
17 not accepted by her fellow students. Working with her freshman English teacher, she was able to  
18 erase from her speech the remnants of her South Central life and learned formal English, allowing  
19 her to succeed at the university level. In fact, she became a writer for the campus newspaper and  
20 editor of the Black Newsletter.

21         After her second year at Davis, Petitioner was finally contacted by her estranged father. He  
22 was a successful orthopedic surgeon in Riverside County. He asked her to move south to regain their  
23 relationship. She transferred to University of California, Riverside and moved in with her father.  
24 She soon learned he did not really want to assume the role of father. In fact, he asked that she not  
25 disclose their actual relationship. After she realized that he drank too much, and that he was abusing  
26 her emotionally and psychologically, she moved out into her own apartment. To support herself, she  
27 took a job working for the Riverside Press Enterprise and began writing plays. One of her plays,  
28 entitled Stepping into Possibilities was performed at Loma Linda University in front of an audience

1 of 400 people. It received a standing ovation.

2 Upon her graduation from U.C. Riverside, she applied to law school, in part with a goal of  
3 protecting those who were unable to protect themselves. She attended UCLA School of Law and  
4 graduated in 1988. She passed the bar examination and went to work at ARCO as a contract attorney  
5 on one of the Superfund cases. After about a year, she became a sole practitioner.

6 Opening her own firm, she began doing probate matters. She was very successful, and her  
7 practice grew. She gave continuing legal education lectures on time management and billing  
8 practices, and also gave talks on probate and estate planning matters. She purchased a condominium  
9 and moved to Beverly Hills. Her life was great, and she was proud that she had overcome extreme  
10 adversity.

11 In late 1997, her life changed dramatically. She learned that one of the men that had  
12 assaulted her during her childhood had died. She woke up to the reality that she had been molested  
13 by nine men before the age of 15. Further, her mother told her that she knew about what had  
14 happened to her, but did nothing.

15 Petitioner descended into depression. Nothing mattered to her anymore. She became  
16 immobilized and could no longer function. She could not manage her practice, would not return  
17 calls or respond to mail. She began to suffer from painful and embarrassing hives, which further  
18 made her avoid contact with people. She withdrew from family, friends and the public for months  
19 at a time. She lost weight, had trouble sleeping and began to self medicate with alcohol and drugs.  
20 She decided to quit the practice of law and began giving notice to all of her clients. She transferred  
21 most of her cases to other attorneys, but some clients were never notified.

22 Petitioner lost her condominium through foreclosure and her car was repossessed. She lived  
23 in various places, but did not give the State Bar a forwarding address. She received a misdemeanor  
24 ticket for driving with a suspended license. She was cited for having less than an ounce of  
25 marijuana, but then ignored the ticket. It became a misdemeanor, and a warrant for her arrest issued.  
26 Months later, she was pulled over by the police for expired registration tags, and was arrested on the  
27  
28

1 outstanding warrant. She spent six days in jail.<sup>2</sup>

2 **B. Underlying Disciplinary Proceedings.**

3 Petitioner has two prior instances of discipline. In case no. S097551 (State Bar Court case  
4 nos. 98-O-1442; 98-O-03538), filed October 31, 2001, the Supreme Court imposed discipline  
5 consisting of five years stayed suspension and actual suspension of two years and until she made  
6 specified restitution; and until she complied with standard 1.4(c)(ii); and until she complied with rule  
7 205, among other things. In this default case, Petitioner was found culpable of four acts of client  
8 abandonment, collection of an illegal fee and failing to cooperate in a State Bar investigation.

9 In case no. S103927 (State Bar Court case nos. 99-O-12259; 00-O-11977), filed April 12,  
10 2002, the Supreme Court imposed discipline consisting of two years and until compliance with  
11 standard 1.4(c)(ii), stayed, and 60 days actual suspension consecutive to the actual suspension in  
12 S097551, among other things.<sup>3</sup> In this case, the parties stipulated to culpability of two instances of  
13 collecting illegal fees and failing to perform and one instance each of improperly withdrawing from  
14 representation, failing to return client documents and not maintaining a current address with the State  
15 Bar.

16 **C. Petitioner's Present Learning and Ability in the General Law.**

17 The Court finds by a preponderance of the evidence that Petitioner possesses the present  
18 learning and ability in the general law, and so meets the requirements of this portion of standard  
19 1.4(c)(ii). Petitioner has continued to work in the legal field as a paralegal in a law firm under the  
20 supervision of other attorneys. She took and passed the March 9, 2003, offering of Multistate  
21 Professional Responsibility Examination. Further, she has kept up with all of her MCLE  
22 requirements and attended Ethics School and Client Trust Account School on March 21 and 22,  
23 2002, respectively.

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24  
25 <sup>2</sup>Both the marijuana and the suspended license infractions have apparently been  
26 expunged.

27 <sup>3</sup>The 60-day actual suspension will commence once Petitioner has met all of the "and  
28 until" conditions of her prior actual suspension; that is, when she has complied with standard  
1.4(c)(ii) and rule 205 and made restitution.

1 Her employer, Rosario Perry, Esq., strongly supports her return to active status as a lawyer.  
2 He notes that she has helped his firm in the area of probate law. He also points out that Petitioner  
3 has continued to learn other fields of law, including rent control, real estate, civil litigation, and  
4 unlawful detainer. According to Mr. Perry, Petitioner is dedicated to continuing her education in  
5 law. Given her long-standing love of education, this is not surprising.

6 Another attorney in her firm, Renay G. Rodriguez also attests to Petitioner's knowledge in  
7 the general law. Mr. Rodriguez comments that the quality of her work is extremely good and notes  
8 that she has been a valued assistant to him in preparing a long-cause case set to go to trial. Finally,  
9 other attorneys in the firm for which Petitioner works, including Michael Anderson, Kristi Gasaway,  
10 and Dionne Marucchi, have all given Petitioner their endorsement in the area of knowledge and  
11 present learning and ability in the general law.

12 **D. Petitioner's Rehabilitation and Present Fitness to Practice Law.**

13 The Court finds by a preponderance of evidence that Petitioner has demonstrated the  
14 rehabilitation and present fitness to practice law, and so meets the requirements of this portion of  
15 standard 1.4(c)(ii).

16 Petitioner has shown herself to be a person of strength and character. She has overcome  
17 serious challenges in her life – challenges that most people could not even comprehend. Given her  
18 difficult childhood, it is understandable that her road to success would not be easy.

19 She faced a few steps backward on her journey, one of which being the reason she appeared  
20 before this Court. However, Petitioner's life has changed dramatically since these problems first  
21 emerged. Petitioner feels strong remorse and sadness for how her actions affected her clients during  
22 her difficult periods. But since that time, she has addressed the problems, paid full restitution to her  
23 clients, paid her court costs to this Court, and performed all the conditions of her probation. Most  
24 importantly, she has regained the spirit that brought her out of her life in the gangs of South Central  
25 Los Angeles. She has gotten a job working in a very supportive law firm as a paralegal. She has  
26 entered into a committed relationship with man, Ted Johnson. Finally, in December 2003, she and  
27 Mr. Johnson had a baby which, in Mr. Johnson's words, has given Petitioner a "foundation that she  
28 never had before." She has embraced the role of being a mother, and, according to Mr. Johnson, is

1 “fully in control of her life and is currently making all the right choices.”

2 Rosario Perry also attests to her rehabilitation and good character. Perry does not believe that  
3 Petitioner will repeat her past mistakes. Perry would not have allowed Petitioner to remain with the  
4 law firm unless Petitioner represented qualities such as consistency, responsibility, stability,  
5 dependability and high moral character, which the firm values. In Perry’s opinion, Petitioner has  
6 demonstrated such high moral character that the firm plans to employ her as an attorney when  
7 Petitioner is again allowed to practice law. Perry believes that Petitioner would be an asset to any  
8 law firm.

9 Renay Rodriguez was so impressed with Petitioner’s progress and recovery from major  
10 depression and post-traumatic stress disorder resulting from childhood abuse, that Rodriguez  
11 recommended Petitioner for the contract paralegal position she now holds. Perry continues to  
12 compliment Rodriguez for finding Petitioner.

13 Rodriguez finds Petitioner to be professional, forthright and honest in her work and in her  
14 interactions with her coworkers. It is clear to Rodriguez that the misconduct that led to Petitioner’s  
15 suspension was aberrational and not indicative of her true character. Rodriguez has observed  
16 Petitioner live modestly and make financial sacrifices, placing her needs second to those former  
17 clients who were entitled to restitution. Rodriguez believes that Petitioner will not repeat the  
18 mistakes of the past because she has learned new insights and skills for dealing with her past. In  
19 Rodriguez’ opinion, Petitioner is a remarkable person, an inspiration and a testament to the resilience  
20 of the human spirit. Rodriguez wholeheartedly supports Petitioner’s return to the practice of law.

21 Michael Anderson, another attorney at the Perry firm, staunchly supports Petitioner’s  
22 regaining her license to practice law. She has a positive attitude and is dependable, self-reliant,  
23 stable, accountable and responsible. Petitioner strikes Anderson as being in control of her life. She  
24 handles stress and pressure extremely well, even with a considerably large caseload. He believes that  
25 Petitioner genuinely cares about people and is steadfast and unfailing in her willingness to be the best  
26 person she can be. She is devoted to her career and to making certain that she does not repeat the  
27 mistakes of the past.

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1 Kristi Gasaway, an attorney at the Perry firm, notes that Petitioner has maintained the  
2 principles of honesty, integrity, responsibility and reliability during the one and one-half years they  
3 have worked together. She believes that, as a consequence of Petitioner's previous mistakes and  
4 discipline, she has grown as a human being and as a lawyer and has made monumental efforts to  
5 become a better person.

6 Dionne Marucchi, an attorney at the Perry office, has no reservation in recommending that  
7 Petitioner be allowed to practice law again. Petitioner conducts herself with integrity. She appears  
8 to be responsible and of high moral character. She is even-tempered and emotionally and mentally  
9 stable. She has regained control over her life. Her commitment to her rehabilitation and to helping  
10 others is truly inspirational. Petitioner is the type of person to whom Marucchi would entrust her  
11 clients and her professional reputation.

12 Ellen Goldin is the office manager/consultant at the Perry law office. Goldin also holds a  
13 Master's degree in Marriage, Family and Child Therapy and spent years interning as a  
14 psychotherapist, and a seminar and group leader. She also has a number of years in doctoral work  
15 in Communication theory, the study of the behavioral, social and humanistic aspects of symbolic  
16 interaction. Because of this background, Goldin believes that she has some insight into Petitioner's  
17 history and status. She believes Petitioner to be notably honest, open and fully responsible with  
18 regard to her situation with the State Bar and about her depression prior to abandoning her law  
19 practice. On the basis of Goldin's day-to-day interactions with Petitioner, Goldin believes that  
20 Petitioner has achieved a level of stability equaling or surpassing that of any attorney or individual  
21 with whom Goldin is acquainted. She has integrity and is reliable. If there were to be a reoccurrence  
22 of depression, Goldin feels that Petitioner would timely seek assistance. Petitioner is well-versed  
23 in preventative and intervening measures. Petitioner is also committed to maintaining high standards  
24 in parenting.

#### 25 **E. Discussion**

26 Standard 1.4(c)(ii) provides, in relevant part, that normally actual suspension imposed for two  
27 years or more shall require proof satisfactory to the State Bar Court of the attorney's rehabilitation,  
28 present fitness to practice and present learning and ability in the general law before he or she will



1 be relieved of the actual suspension.

2 In this proceeding, Petitioner has the burden of proving by a preponderance of the evidence  
3 that she has satisfied the conditions of standard 1.4(c)(ii). The Court looks to the nature of the  
4 underlying misconduct as well as the aggravating and mitigating circumstances surrounding it to  
5 determine the point from which to measure Petitioner's rehabilitation, present learning and ability  
6 in the general law, and present fitness to practice before being relieved from her actual suspension.  
7 (*In the Matter of Murphy* (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 571, 578.)

8 To establish rehabilitation, the Court must first consider the prior misconduct from which  
9 Petitioner seeks to show rehabilitation. The amount of evidence of rehabilitation varies according  
10 to the seriousness of the misconduct at issue. Second, the Court must examine Petitioner's actions  
11 since the imposition of her discipline to determine whether her actions, in light of the prior  
12 misconduct, sufficiently demonstrate rehabilitation by a preponderance of the evidence. (*In the*  
13 *Matter of Murphy, supra*, 3 Cal. State Bar Ct. Rptr. at p. 581.)

14 Petitioner must show strict compliance with the terms of probation in the underlying  
15 disciplinary matter; exemplary conduct from the time of the imposition of the prior discipline; and  
16 must demonstrate "that the conduct evidencing rehabilitation is such that the court may make a  
17 determination that the conduct leading to the discipline ... is not likely to be repeated." (*In the*  
18 *Matter of Murphy, supra*, 3 Cal. State Bar Ct. Rptr. at p. 581.)

19 Petitioner has complied with all the terms and conditions of her probation. She has  
20 maintained an active participation in law as a paralegal and has continued to expand her knowledge  
21 of law through reading and continuing legal education courses as well as through her work. Her  
22 employer and coworkers agree that Petitioner is dedicated to her work and that her work is excellent.

23 More importantly, Petitioner's witnesses, most of whom are practicing attorneys, agree that  
24 she is stable and fit to practice. Her employer is prepared to hire her as an attorney once Petitioner  
25 is again able to practice. The Court properly gave great weight to the testimony of her employers,  
26 all attorneys, who have special interest in the ethical requirements. (*Cf., Hippard v. State Bar* (1989)  
27 49 Cal.3d 1084, 1095.) They have a keen sense of responsibility for the integrity of the legal  
28 profession and would not recommend an unfit individual for admission. (*In re Menna* (1995) 11

1 Cal.4th 975, 988.) They uniformly speak highly of her diligence and honesty.

2 One of the most significant reasons that the Court is confident that Petitioner will succeed  
3 in her endeavors as an attorney is her own strength of character combined with the safety net she has  
4 acquired through her firm and her family. All of these individuals are obviously willing and able to  
5 provide support for Petitioner in facing the inevitable challenges she will meet in her transition back  
6 to life as a practicing attorney.

7 No evidence has been presented indicating less than exemplary conduct from the time of  
8 the imposition of the prior discipline. It appears to the Court that the conduct leading to the  
9 discipline is not likely to be repeated. Therefore, based on the above, the Court finds that Petitioner  
10 has demonstrated, by a preponderance of evidence, that she is rehabilitated, has present fitness to  
11 practice law, and has present learning and ability in the general law.

12 **VI. CONCLUSION**

13 The Court finds that Petitioner has satisfied the requirements of standard 1.4(c)(ii) of the  
14 Standards for Attorney Sanctions for Professional Misconduct and that she has demonstrated, by a  
15 preponderance of the evidence and to the satisfaction of the Court, that she is rehabilitated, that she  
16 is presently fit to practice law and that she possesses present learning and ability in the general law.

17 Accordingly, the petition to be relieved from her actual suspension from the practice of law  
18 is hereby **GRANTED**. Upon the finality of this Decision, Petitioner's actual suspension from the  
19 practice of law in the State of California is hereby terminated and she shall hereafter be entitled to  
20 resume the practice of law in California upon payment of all applicable State Bar fees.

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23  
24 Dated: August 24, 2004

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26 \_\_\_\_\_  
27 **RICHARD A. HONN**  
28 Judge of the State Bar Court

**CERTIFICATE OF SERVICE**  
**[Rule 62(b), Rules Proc.; Code Civ. Proc., § 1013a(4)]**

I am a Case Administrator of the State Bar Court. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on August 24, 2004, I deposited a true copy of the following document(s):

**DECISION, filed August 24, 2004**

in a sealed envelope for collection and mailing on that date as follows:

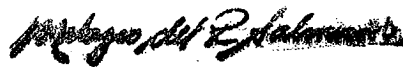
by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**MICHAEL GALEN GERNER**  
**10100 SANTA MONICA BL #800**  
**LOS ANGELES, CA 90067**

by interoffice mail through a facility regularly maintained by the State Bar of California addressed as follows:

**Charles Murray, Enforcement, Los Angeles**

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **August 24, 2004**.



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**Milagro del R. Salmeron**  
Case Administrator  
State Bar Court