

VIRGINIA :

IN THE CIRCUIT COURT FOR THE CITY OF CHARLOTTESVILLE

VIRGINIA STATE BAR *EX REL*
SEVENTH DISTRICT COMMITTEE
VSB DOCKET NO. 24-070-130193

Complainant,

v.

Case No. CL 2400587-00

MICHAEL J. HALLAHAN, II,

Respondent.

FINAL JUDGMENT MEMORANDUM ORDER
(SUSPENSION WITH TERM)

THIS MATTER was heard on December 9, 2024, before a Three-Judge Circuit Court duly impaneled pursuant to Section 54.1-3935 of the Code of Virginia (1950) as amended, consisting of the Honorable Tracy W. Thorne-Begland, Judge of the Thirteenth Judicial Circuit and Chief Judge Designate (“Chief Judge”), the Honorable Steven B. Novey, Judge of the Twelfth Judicial Circuit, and the Honorable Clark Andrew Ritchie, Judge of the Twenty Sixth Judicial Circuit (collectively, “the Court”).

Assistant Bar Counsel, Joseph M. Caturano, Jr., represented the Virginia State Bar (“VSB”). Michael J. Hallahan, II (“Respondent” or “Mr. Hallahan”) having received proper notice, appeared in person throughout the proceedings and was represented by Prescott L. Prince, Esquire. Lauren N. Fridley served as court reporter for the hearing.

The Chief Judge swore the court reporter, and each member of the Court verified that they had no personal or financial interest that might affect or reasonably be perceived to affect their ability to be impartial in this matter.

WHEREUPON a hearing was conducted upon the Rule to Show Cause issued on September 24, 2024, against Mr. Hallahan. The Rule directed Mr. Hallahan to appear on December 9, 2024, and to show cause why his license to practice law in the Commonwealth of Virginia should not be suspended, revoked or otherwise sanctioned by reason of the allegations of ethical misconduct set forth in the Certification issued by a Subcommittee of the Seventh District Committee on June 31, 2024, of the VSB in accordance with Part Six, Section IV, Paragraph 13 of the Rules of the Supreme Court of Virginia.

MISCONDUCT PHASE

The Court admitted into evidence VSB Exhibits 1-17, pursuant to the Pre-Hearing Order entered on October 31, 2024, and an Order of December 5, 2024, on the VSB's Motion *in Limine* and Respondent's Motion to Quash Witness Subpoena. Thereafter, both parties made opening statements.

The Court then received the testimony of the following witnesses for the VSB:

Alexandra Meador, Esquire

Robert E. Baker, Investigator for VSB

Brittany N. Dotson

Rick Dotson.

Thereafter, the VSB rested. Respondent moved to strike the VSB's evidence pursuant to Part Six, Section IV, Para. 13-18.J of the Rules of the Supreme Court of Virginia, which the Court denied.

The Court then received the testimony of Mr. Hallahan in his case, and the following witnesses for Mr. Hallahan:

Ashley Hallahan

Clarissa Berry

Edwin Consolvo

Daniel Rutherford.

The Court admitted Mr. Hallahan's Exhibits 1-11 into evidence pursuant to the Pre-Hearing Order entered on October 31, 2024, and the Order of December 5, 2024. Thereafter, Mr. Hallahan, by counsel, rested.

At the conclusion of all evidence in the Misconduct phase, both parties by counsel presented closing arguments to the Court, and the Court thereafter retired to deliberate.

Upon due deliberation and in consideration of the exhibits, witness testimony, the observations of the witnesses and determinations as to their credibility, and the arguments of counsel, the Court found ^{unanimously} that the VSB proved the following findings of fact by clear and convincing evidence, and upon the parties' Stipulations of Fact of December 5, 2024:

FINDINGS OF FACT

1. Mr. Hallahan was admitted to the Virginia State Bar ("VSB") on October 6, 2000. At all relevant times, Mr. Hallahan was a member of the VSB. Stipulation of December 5, 2024.
2. Mr. Hallahan is a solo practitioner in Charlottesville and practices criminal defense. Stipulation of December 5, 2024.
3. Mr. Hallahan began representing court-appointed clients in 2001, and since 2020, Mr. Hallahan has accepted court-appointed adult criminal cases in approximately thirty-eight (38) courts in sixteen (16) jurisdictions. Stipulation of December 5, 2024.
4. Mr. Hallahan estimated that since 2020, he represented approximately 500-525 court-appointed clients per year, which include approximately 1,100 criminal charges per year. Stipulation of December 5, 2024.

5. On or about March 31, 2020, the Augusta County General District Court appointed Mr. Hallahan to represent Brittney N. Dotson ("Ms. Dotson") on two larceny charges. Stipulation of December 5, 2024.
6. In December 2020, the Augusta County General District Court appointed Mr. Hallahan to represent Ms. Dotson on an additional eighteen (18) criminal charges. Stipulation of December 5, 2024.
7. On January 5, 2021, the preliminary hearing on the twenty (20) criminal charges was waived, the charges were certified, and the Augusta County Circuit Court ("Court") appointed Mr. Hallahan to represent Ms. Dotson on the twenty (20) felony charges ("criminal case") including, one (1) count of petit larceny by shoplifting, third or subsequent offense; one (1) count of obtain credit card by larceny; one (1) count of credit card fraud; five (5) counts of petit larceny, third offense; six (6) counts of uttering; and six (6) counts of forgery: Augusta County Cir. Ct. Case Nos.: CR 2100000-200 through CR 2100000-219. Stipulation of December 5, 2024.
8. After numerous email exchanges with the Deputy Commonwealth's Attorney, Alexandra M. Meador ("Ms. Meador"), Mr. Hallahan received a proposed plea agreement on July 16, 2021. The proposed plea agreement prepared by Ms. Meador contained terms that Ms. Dotson admit guilt to the twenty (20) criminal charges, among other things. Prior to Ms. Dotson signing the plea agreement, Mr. Hallahan discussed the proposed plea agreement with her and recommended that she accept it. Mr. Hallahan also discussed the matter with Ms. Dotson's father, Rick Dotson, who was a character witness at sentencing. Stipulation of December 5, 2024.
9. On July 30, 2021, Ms. Dotson pled guilty to the twenty (20) criminal charges in the Augusta County Circuit Court. The Court sentenced Ms. Dotson to five years' incarceration with four years suspended, and three years of supervised probation upon release from incarceration on each charge. All time was to run concurrently. On August 3, 2021, four (4) charges pending in the Augusta County General District Court against Ms. Dotson were *nolle prossed*. Stipulation of December 5, 2024.
10. On July 30, 2021, and August 3, 2021, Mr. Hallahan submitted eighteen (18) List of Allowance Forms ("DC-40 Forms") to the Court representing that Mr. Hallahan had expended ninety (90) hours of legal work in the criminal case on behalf of Ms. Dotson through July 30, 2021. Mr. Hallahan acknowledged that the eighteen (18) List of Allowance Forms submitted by the Virginia State Bar at Exhibit 12 represented an accurate copy of the documents submitted by Mr. Hallahan to the Court. Stipulation of December 5, 2024. The List of Allowance Forms reflected 1 hour and 42 minutes of "in court time," and 88 hours and 18 minutes of "out of court time" by Mr. Hallahan in the criminal case.
11. The DC-40 Forms filed by Mr. Hallahan contained a certification to the Court stating,

I certify that the above claim for fees and/or expenses is true and accurate and that no compensation for the time or services set forth has previously been received. Stipulation of December 5, 2024.

12. During the VSB's investigation, Mr. Hallahan represented that he "worked every hour" of the claimed ninety (90) hours spent on the criminal case. Stipulation of December 5, 2024.
13. Mr. Hallahan was paid \$8,010 by the Commonwealth of Virginia upon his submission of the eighteen (18) DC-40 Forms to the Augusta County Circuit Court in Ms. Dotson's criminal case. Stipulation of December 5, 2024.
14. The Augusta County Circuit Court sent an invoice to Ms. Dotson requiring payment from Ms. Dotson for court costs in the criminal case; included in the court costs was the amount paid to Mr. Hallahan by the Commonwealth of Virginia for his representation of Ms. Dotson in the criminal case. Stipulation of December 5, 2024.
15. The eighteen (18) DC-40 Forms submitted by Mr. Hallahan to the Augusta County Circuit Court on July 30, 2021, and August 3, 2021, contained false statements on the hours worked by Mr. Hallahan on behalf of Ms. Doston.

FINDINGS OF MISCONDUCT

Based on the foregoing Findings of Fact, the Court found that the VSB proved by clear and convincing evidence that such conduct by Mr. Hallahan violated the following Virginia Rules of Professional Conduct:

Rule 3.3: Candor Toward the Tribunal

(a) A lawyer shall not knowingly:

1. make a false statement of fact or law to a tribunal[.]

The Court found that Mr. Hallahan violated Rule 3.3(a)(1) by knowingly making false statements of fact to the Augusta County Circuit Court as contained in the DC-40 Forms submitted for payment.

Rule 8.4: Misconduct

It is professional misconduct for a lawyer to:

* * *

(c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation which reflects adversely on the lawyer's fitness to practice law[.]

The Court further found that Mr. Hallahan violated Rule 8.4(c), by engaging in conduct involving dishonesty, fraud, deceit or misrepresentation which reflected adversely on his fitness to practice law. The Court noted that Respondent's evidence to the contrary was not credible.

DISMISSAL OF RULE 8.4(b)

The Court found that the VSB failed to prove by clear and convincing evidence that Mr. Hallahan violated Rule 8.4(b).

SANCTIONS PHASE

The Court then convened the sanctions phase of the proceeding on December 9, 2024. The Court received the testimony of Joseph McMahon of the Joint Legislative Audit and Review Commission ("JLARC") on behalf of the VSB. The Court also received into evidence from the VSB on sanctions Ex. 1, a Certification of Mr. Hallahan's prior disciplinary record in Virginia, reflecting no previous disciplinary history; Ex. 2, an Affidavit of Mary Puryear from the Office of the Executive Secretary of the Supreme Court of Virginia dated November 25, 2024, on Mr. Hallahan's submissions of DC-40 Forms from July 1, 2019, through June 30, 2023; and Ex. 3, a Report to the Governor and the General Assembly of Virginia on Indigent Criminal Defense and Commonwealth's Attorneys by JLARC dated November 13, 2023.

The Court also received the testimony of Mr. Hallahan on the sanctions to be imposed.

Assistant Bar Counsel and Mr. Hallahan's counsel presented argument on the sanctions to be imposed.

At the conclusion of evidence and argument in the sanctions phase, the Court took the matter under advisement. The Court then deliberated and considered all the evidence on the appropriate sanction to be imposed, as well as the arguments of Mr. Hallahan and Assistant Bar Counsel.

DETERMINATION

Having considered the misconduct found, and after due consideration of the evidence presented in mitigation and aggravation, and having considered the arguments of counsel for Mr. Hallahan and Assistant Bar Counsel, the Court reconvened and announced its sanction of a SUSPENSION OF 120 DAYS of Mr. Hallahan's license to practice law in the Commonwealth of Virginia, effective March 9, 2025 (or 90 days from December 9, 2024), and RESTITUTION to the Circuit Court Clerk of Augusta County by Mr. Hallahan on behalf of Brittany Dotson toward her court costs in the amount of Five Thousand Nine Hundred Forty Dollars (\$5,940.00) to be paid by March 9, 2025.

In deciding to suspend Mr. Hallahan's law license, and order restitution, the Court relied on the gravity of Mr. Hallahan's misconduct. The Court stated, in part, as follows:

[A]mbition and financial desire can cause one to make bad decisions. And I think that is what the Court has found by clear and convincing and very compelling evidence, particularly in light of what the Court heard from the representative from JLARC.

The Court obviously found some of the evidence here to be extraordinary; the idea of working between four and five thousand hours a year, carrying a caseload of 250 open cases, working a docket load that [Mr. Hallahan] described as being four times that of a public defender in this state. And it's just hard to imagine that that comports with practicality or even reality.

And so, the Court has to conclude that given the evidence in this case that this was not an isolated incident. And that nearly \$1.9 million includes probably, certainly, additional incidents of improper billing. And that is one of the factors that the Court has to consider in its

sanctions in this case.

And then it's also, I think, important for the Court to note that the victims in this case are not just, you know, the semi-autonomous entity of the Commonwealth. It's more than the Commonwealth, and not that that should matter. The Commonwealth is entitled to get the bang for its buck every time we take the taxpayer's money.

But it is particularly concerning that in this case, Ms. Dotson was essentially victimized by her own lawyer in the name of utilizing the "budget" for a case [by Mr. Hallahan]. Ms. Dotson should not be working out from under the burden of court costs that were duplicative and entirely unnecessary.

[Ms. Dotson] should not have to pay off the fees that were charged for reading the same code sections, the same annotations in the same cases, if that even occurred, over and over and over again. And the Court finds that to be an aggravating factor as well.

Considering the need for the Court to make clear to members of the Bar that this type of financial misappropriation will not be tolerated ... the Court has decided on a suspension [of 120 days] with a term ... restitution in the amount of \$5,940 [to be paid by Mr. Hallahan] to the Clerk of Court ... on behalf of Brittany Dotson.

Accordingly, it is hereby ORDERED that Mr. Hallahan's license to practice law in the Commonwealth of Virginia be, and the same hereby is, **SUSPENDED**, effective March 9, 2025, for 120 days, and Mr. Hallahan is ORDERED to pay restitution to the Circuit Court Clerk of Augusta County on behalf of Brittany Dotson in the amount of \$5,940, by March 9, 2025, toward her court costs. Said suspension shall terminate without the need for further Order of this Court at the conclusion of the 120-day suspension.

It is further ORDERED that Mr. Hallahan must comply with the requirements of Part Six, Section IV, Paragraph 13-29 of the Rules of the Supreme Court of Virginia. Mr. Hallahan must forthwith give notice by certified mail, return receipt requested, of the Suspension of his license to practice law in the Commonwealth of Virginia, to all clients for whom Mr. Hallahan is

currently handling matters and to all opposing attorneys and presiding judges in pending litigation. Mr. Hallahan must also make appropriate arrangements for the disposition of matters then in Mr. Hallahan's care in conformity with the wishes of his clients. Mr. Hallahan must give such notice immediately and in no event later than 14 days from the effective date of the Suspension, and make such arrangements as are required herein as soon as practicable and in no event later than 45 days from the effective date of the Suspension. Mr. Hallahan must also furnish proof to the VSB within 60 days of the effective date of the Suspension that such notices have been timely given and such arrangements made for the disposition of matters.

It is further ORDERED that, if Mr. Hallahan is not handling any client matters on the effective date of the Suspension, Mr. Hallahan must submit an affidavit to that effect to the Clerk of the Disciplinary System of the VSB. Issues concerning the adequacy of the notice and arrangement required by Paragraph 13-29 must be determined by the VSB Disciplinary Board, which may impose a sanction of Suspension or Revocation for failure to comply with these requirements.

It is further ORDERED that the Clerk of the Disciplinary System of the VSB must assess all costs pursuant to Paragraph 13-9.E.

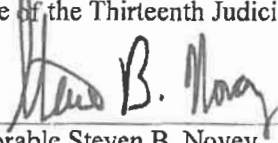
It is further ORDERED that the Clerk must send a copy teste of this order to Michael J. Hallahan, II, Respondent, at 435 Park Street, Charlottesville, Virginia 22902; and to Prescott L. Prince, Esquire, counsel for Respondent, at 1901 Huguenot Road, Suite 200, N. Chesterfield, Virginia 23234; and to Joseph M. Caturano, Jr., Assistant Bar Counsel, Virginia State Bar, 1111 E. Main St., Suite 700, Richmond, VA 23219; and to Joanne Fronfelter, Clerk of the Disciplinary System, Virginia State Bar, 1111 E. Main St., Suite 700, Richmond, VA 23219.

These proceedings were transcribed by Lauren N. Fridley, at Lauren Fridley at
lfridley88@gmail.com.

This Order is the final judgment of this Court as provided by Rule 5:21(b)(2)(ii) of the
Rules of the Supreme Court of Virginia.

ENTERED this _____ day of _____ 2024

Honorable Tracy W. Thorne-Begland
Judge of the Thirteenth Judicial Circuit and Chief Judge Designate




Honorable Steven B. Novey
Judge of the Twelfth Judicial Circuit

Honorable Clark Andrew Ritchie
Judge of the Twenty Sixth Judicial Circuit

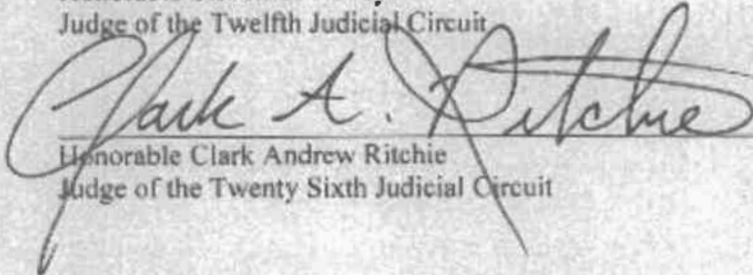
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lfridley88@gmail.com.

This Order is the final judgment of this Court as provided by Rule 5:21(b)(2)(ii) of the
Rules of the Supreme Court of Virginia.

ENTERED this 9th day of January 2025
2024


Honorable Tracy W. Thorne-Begland
Judge of the Thirteenth Judicial Circuit and Chief Judge Designate

Honorable Steven B. Novey
Judge of the Twelfth Judicial Circuit

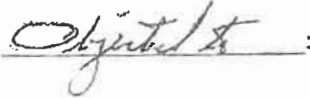

Honorable Clark Andrew Ritchie
Judge of the Twenty Sixth Judicial Circuit

SEEN:



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