

VIRGINIA:

IN THE CIRCUIT COURT FOR THE CITY OF PETERSBURG

**VIRGINIA STATE BAR EX REL.
THIRD DISTRICT, SECTION III COMMITTEE
VSB DOCKET NO. 24-033-129827**

Complainant,

v.

Case No. CL 24-884

JOSEPH WILLIS LEE, III

Respondent.

FINAL JUDGMENT MEMORANDUM ORDER

THIS MATTER was heard on March 18-19, 2025 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 Jamilah D. LeCruise of the Fourth Judicial Circuit as Chief Judge Designate ("Chief Judge"), the Honorable Bradley B. Cavado of the Thirteenth Judicial Circuit, and the Honorable James William Watson, Jr. of the Tenth Judicial Circuit (collectively, "the Court").

Assistant Bar Counsel Shelley L. Spalding represented the Virginia State Bar ("VSB"). Respondent Joseph Willis Lee, III ("Respondent"), having received proper notice, appeared in person at all times throughout the proceedings and was represented by Paulo E. Franco, Jr. of *ThompsonMcMullan, P.C.* Beverly Horne of Chandler Halasz, Inc. 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 November 25, 2024, against Respondent. The Rule directed Respondent to appear and to show cause why his license to practice law in the Commonwealth of Virginia should not be suspended, revoked, or otherwise sanctioned in accordance with Part Six, Section IV, Paragraph 13 of the Rules of the Supreme Court of Virginia by reason of the allegations of ethical misconduct set forth in the Certification issued on September 24, 2024.

MISCONDUCT PHASE

At the beginning on the Misconduct phase, the Court restated for the record the Court's rulings on Witnesses and Exhibits and Respondent's Motion *in Limine*, matters which were previously ruled upon at duly convened pre-hearing conference held on March 13, 2025.

The Court admitted into evidence VSB Exhibits 1-3 and 5-6 and Respondent's Exhibits 1-3, 5, 7-9, 13, 16-17 and 19-20 without objection. Respondent's objections to VSB Exhibit 4 were overruled and it was admitted. The VSB's objections to Respondent's Exhibits 4, 6, 10, 11, 12, 14, 15, 21, and 22 were overruled and those exhibits were admitted. The VSB's objection to Respondent's Exhibit 18 was sustained.

Thereafter, the parties presented opening arguments.

During the Misconduct phase, the VSB called the following witnesses:

1. Sante Piracci, Esq.,
2. Elsa Seidel, Esq., and
3. Ashley Henderson, Esq.

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 was

denied, and Respondent's objection for the reasons stated on the record was duly noted by the Court.

During the Misconduct phase, the Respondent called the following witness:

1. Respondent.

Thereafter, Respondent rested. Respondent then renewed his motion to strike the VSB's evidence, which was again denied, and Respondent's objection for the reasons stated on the record was duly noted by the Court.

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

Upon due deliberation and consideration of the parties' exhibits, witness testimony, and the arguments of counsel, the Court found that the following facts were proven by clear and convincing evidence.

FINDINGS OF FACT

1. Respondent was admitted to the VSB on June 8, 1999. At all relevant times, Respondent was a member of the VSB. VSB Exhibit 1.
2. In 2023, Respondent was employed by the Petersburg Commonwealth's Attorney's Office, and, in that capacity, was prosecuting Rayshawn Scott on felony charges, including second-degree murder, in the Circuit Court for the City of Petersburg. Testimony of Respondent; Testimony of Sante Piracci.
3. Sante Piracci ("Complainant") was Rayshawn Scott's court-appointed defense attorney. Testimony of Sante Piracci.
4. Shaquille Scott is Rayshawn Scott's cousin and was a witness to percipient events to the criminal charges against Rayshawn Scott. Testimony of Sante Piracci; Testimony of Elsa

Seidel. Shaquille Scott was also facing criminal charges in Petersburg, including felony possession with intent to distribute, which can carry a forty-year sentence on a first offense. Testimony of Elsa Seidel. Elsa Seidel was court-appointed to represent Shaquille Scott on his pending drug charges in Petersburg. *Id.*

5. Rayshawn Scott's trial was originally set for January 25, 2023. Testimony of Sante Piracci. Respondent filed a witness list in advance of the January 25, 2023, trial date, which did not identify Shaquille Scott as a witness for the prosecution. Testimony of Sante Piracci; VSB Exhibit 3C; LBE EXHIBITS 00641-00643.

6. The prosecution's civilian witnesses failed to appear at the January 25, 2023, trial, and the Court continued the trial to March 10, 2023, over the objection of Mr. Piracci. Testimony of Respondent; Testimony of Sante Piracci.

7. On March 6, 2023, Respondent and Ms. Seidel were in court for a preliminary hearing on the charges against Shaquille Scott. Testimony of Respondent; Testimony of Elsa Seidel.

8. On March 6, 2023, Respondent offered Ms. Seidel an agreement to reduce felony possession with intent to distribute charges against Shaquille Scott to paraphernalia charges in exchange for Shaquille's testimony against Rayshawn Scott in the murder trial (the "Offer.") Testimony of Elsa Seidel. A paraphernalia charge is a misdemeanor. *Id.*

9. Ms. Seidel told Shaquille Scott, of the Offer, at which point he agreed to testify. Testimony of Elsa Seidel. Prior to the Offer, Shaquille Scott had not agreed to testify against his cousin, Rayshawn Scott. *Id.* Ms. Seidel also advised Respondent that the Offer was acceptable to Shaquille Scott, and he would testify. *Id.*

10. On March 6, 2023, the charges against Shaquille Scott were continued to May 1, 2023, a date on which Respondent expected to be in court handling the docket. Testimony of Elsa Seidel; Testimony of Respondent.

11. On March 7, 2023, Respondent arranged for a witness summons to be served on Shaquille Scott for the March 10, 2023, trial of Rayshawn Scott. Testimony of Sante Piracci; Testimony of Respondent; VSB Ex. 2 at LEE EXHIBITS 000032-33. The summons was served on Shaquille Scott on March 8, 2023. *Id.*

12. On March 9, 2023, Respondent served and filed "Supplemental Disclosure and For the Tender of Brady Materials," which identified witnesses Respondent intended to call at the March 10, 2023, trial of Rayshawn Scott. Testimony of Sante Piracci; VSB Exhibit 3C at 00651-653. The March 9, 2023, disclosures were identical to prior disclosures by Respondent, except for the addition of Shaquille Scott as a witness for the Commonwealth. *Id.*

13. Respondent did not disclose the Offer to Rayshawn Scott or his counsel, Sante Piracci prior to Rayshawn Scott's March 10, 2023, murder trial. Testimony of Sante Piracci; VSB Exhibit 2; VSB Exhibit 4F.

14. On March 10, 2023, Shaquille Scott testified at the trial of Rayshawn Scott and was the only witness to place Rayshawn Scott at the scene of the murder. *Id.*

15. The Offer would have impeached the testimony of Shaquille Scott, as it provided motivation for his testimony. Testimony of Sante Piracci; VSB Exhibit 4F. However, because Respondent had not disclosed the Offer to either Complainant or Rayshawn Scott, Complainant did not ask Shaquille Scott about the Offer during the March 10, 2023, trial. Testimony of Sante Piracci.

16. On March 10, 2023, Rayshawn Scott was convicted of seven felonies, including second-degree murder. *Id.*

17. On March 22, 2023, at the request of the Petersburg Commonwealth's Attorney's Office, the Colonial Heights Commonwealth's Attorney's Office was appointed as special prosecutor for the charges pending against Shaquille Scott in Petersburg. Testimony of Ashley Henderson; VSB Exhibit 2 at LEE EXHIBITS 00458. Ashley Henderson was the Deputy Commonwealth's Attorney for Colonial Heights at the time and assigned the case to Zachary Livesay from her office. Testimony of Ashley Henderson.

18. On March 22, 2023, Mr. Livesay reached out to Ms. Seidel to inquire about the case against Shaquille Scott and advised Ms. Seidel of Colonial Heights' appointment as special prosecutor. Testimony of Elsa Seidel.

19. Upon learning of the special prosecutor appointment, Ms. Seidel became concerned whether the Commonwealth would honor the agreement with her client. Testimony of Elsa Seidel. *Id.* The same day, March 22, 2023, Ms. Seidel responded to Mr. Livesay:

[Shaquille] was only arrested after his cousin murdered yet another person and they needed info from him (several months after he was stopped on the RD that resulted in the drug charge). He testified in the murder case last week. Interestingly, the prosecutor in Petersburg, Mr. Lee, told me that Shaq would be given a misdemeanor paraphernalia charge in exchange for testifying to what he had told them originally and consistently in regards to the events of the time of that murder. Lee never mentioned anything about getting a special and we set it on a day that he would be in GDC.

VSB Exhibit 4I.

20. On March 23, 2023, Mr. Livesay printed out this March 22, 2023, email from Elsa Seidel and walked into Ms. Henderson's office with a hard copy of it. Testimony of Ashley Henderson. Ms. Henderson reviewed it then called Respondent to inquire. *Id.* Ms. Henderson asked Respondent whether an agreement had been reached with Shaquille Scott in exchange for

his testimony. Respondent responded affirmatively. Testimony of Ashley Henderson. Ms. Henderson inquired of Respondent what Shaquille Scott was to receive for his testimony. *Id.* Respondent stated "paraphernalia." *Id.* The handwritten word "paraphernalia" on VSB Ex. 4I was Ms. Henderson's and she wrote it during the conversation with Respondent on March 23, 2023. *Id.* Ms. Henderson also inquired what Shaquille Scott had to do to get "paraphernalia," and Respondent stated he had to testify against Rayshawn Scott. *Id.* Ms. Henderson then asked hadn't Shaquille Scott already done that and Respondent answered affirmatively. *Id.* Ms. Henderson was upset because her office would be bound by this deal, which they did not participate in negotiating. *Id.* Ms. Henderson also could not understand why her office was appointed as special prosecutor under these circumstances, and she asked to speak to Tiffany Buckner, Respondent's supervisor. *Id.*

21. On March 31, 2023, Mr. Piracci learned of the Offer from Ms. Seidel. Testimony of Sante Piracci; Exhibit 2 at LEE EXHIBITS 00007.

22. On April 24, 2023, Ms. Henderson and the Commonwealth's Attorney's Office for Colonial Heights moved to withdraw as special prosecutor in Petersburg for the charges pending against Shaquille Scott, which motion was granted at a hearing on May 26, 2023. Testimony of Ashley Henderson; Testimony of Elsa Seidel; VSB Exhibit 2 at LEE EXHIBITS 25-28. At the May 26, 2023, hearing, Respondent resumed the role of prosecutor for the pending charges against Shaquille Scott and continued the matter to June 26, 2023. Testimony of Elsa Seidel.

23. On June 26, 2023, Respondent *nolle prossed* the drug charges against Shaquille Scott in Petersburg. Testimony of Sante Piracci; Testimony of Elsa Seidel; Testimony of Respondent.

24. In his response to the bar complaint Respondent stated:

I made the strategic decision to *nolle prosequere* the possession with intent to distribute charges against Shaquille on June 26, 2023, due to the nature of the allegations swirling against the Commonwealth and myself at that time.

VSB Exhibit 3 at LEE EXHIBITS 00464. During his testimony in this matter, Respondent denied this and testified that he was directed by his supervisor, Tiffany Buckner, to *nolle prosequere* the charges against Shaquille Scott. Testimony of Respondent.

25. On June 26, 2023, Rayshawn Scott, by and through counsel, filed a Motion to Dismiss or for a New Trial alleging that Respondent committed a *Brady/Giglio* violation by failing to disclose the Offer and filed a motion seeking to reverse Rayshawn Scott's conviction. Testimony of Sante Piracci; VSB Exhibit 3C; VSB Exhibit 2 at LEE EXHIBITS 00006; VSB Exhibit 3C at LEE EXHIBITS 00636.

26. On June 26, 2023, Rayshawn Scott, by and through counsel, filed a Motion to Disqualify Respondent and the Petersburg Commonwealth Attorney's Office for, *inter alia*, violation of Rule 3.8 (d) of the Virginia Rules of Professional Conduct. VSB Exhibit 2 at LEE EXHIBITS 00034; VSB Exhibit 3C at LEE EXHIBITS 00664.

27. On August 7, 2023, the Court held an evidentiary hearing on Complainant's Motion for a New Trial and the Motion to Disqualify Respondent and the Petersburg Commonwealth Attorney's Office. VSB Exhibit 3B, VSB Exhibit 4J. Respondent did not testify during the August 7, 2023, hearing. *Id.* In arguments as counsel, Respondent denied that he entered into any agreement with Shaquille Scott. *Id.*

28. On January 4, 2024, the Petersburg Circuit Court held a hearing and announced its findings and rulings in open court on the Motion to Dismiss or for New Trial and Motion to Disqualify. Transcript of January 4, 2024, VSB Exhibit 4E.

29. The Petersburg Circuit Court found, among other things, that Shaquille Scott had been offered something by the Commonwealth, that he was motivated to testify because of the promised consideration, that the failure to disclose the consideration was a violation of *Brady v. Maryland*, and that the violation was material. The Petersburg Circuit Court granted the Motion for New Trial, denied the Motion to Dismiss, and denied the Motion to Disqualify. *Id.*; VSB Exhibit 4F.

30. In making its findings the Petersburg Circuit Court stated, “[t]he Court’s findings in no way reflect that the Court finds that anyone did anything purposefully wrong in this case, and it’s not the Court’s opinion that the Commonwealth did this blatantly or this was somehow some sort of ethical violation.” *Id.*

31. On April 1, 2024, the Court entered an order reflecting its findings and ruling of January 4, 2024, that was drafted by Sante Piracci, which stated, “[t]he Court finds that the Commonwealth’s Attorney did nothing purposefully wrong or that would constitute an ethical violation.” VSB Exhibit 4F, Respondent Exhibit 4, Testimony of Sante Piracci.

32. On July 3, 2024, Rayshawn Scott was again convicted of second-degree murder and other related charges in the Circuit Court for the City of Petersburg. Testimony of Sante Piracci; Testimony of Respondent. Shaquille Scott testified again on behalf of the Commonwealth and was cross-examined on the benefit he received for his previous testimony. *Id.* At the second trial of Rayshawn Scott, in addition to Shaquille Scott, a new witness testified also placing Rayshawn Scott at the scene of the murder.

33. Rayshawn Scott was once again convicted of several felonies, including second-degree murder. Respondent’s Exhibit 17.

34. This Court finds Respondent's testimony: (1) that Respondent did not make any offer to Elsa Seidel on March 6, 2023, and (2) that Respondent did not admit to Ashley Henderson on March 23, 2023, that he made an offer of "paraphernalia," not credible. In contrast, this Court finds the testimony of Elsa Seidel, Ashley Henderson and Sante Piracci on these matters credible and consistent with one another.

FINDINGS OF MISCONDUCT

Based on the foregoing findings of fact, the Court found that the VSB proved by clear and convincing evidence that Respondent violated the following Virginia Rules of Professional Conduct:

RULE 3.8 Additional Responsibilities of a Prosecutor

A lawyer engaged in a prosecutorial function shall:

* * * * *

(d) make timely disclosure to counsel for the defendant, or to the defendant if he has no counsel, of the existence of evidence which the prosecutor knows tends to negate the guilt of the accused, mitigate the degree of offense, or reduce the punishment, except when disclosure is precluded or modified by order of a court[.]

Respondent noted his objections to the Court's finding of Misconduct on the record and the Court duly noted the objection.

SANCTIONS PHASE

The Court then convened the sanctions phase of the proceeding. The parties presented opening statements. The VSB incorporated by reference all of the exhibits introduced and the testimony elicited during the Misconduct phase of the hearing. The VSB then moved into evidence VSB Ex. 7, a Certification of Respondent's prior disciplinary record in Virginia, which included one instance of prior discipline. In 2018 Respondent received a Public Reprimand for violations of Rules 3.4(e) and 3.8(d) for failing to disclose exculpatory evidence in a criminal

prosecution he handled during his tenure as an Assistant Commonwealth's Attorney in Portsmouth.

Respondent testified on his own behalf during the sanctions phase of the proceeding and presented the testimony of the following witnesses: Thomas Chaffe, the Honorable Timothy Martin, and the Honorable Regina Sykes.

The VSB presented rebuttal testimony from Shaun Huband, Petersburg Chief Public Defender, to which Respondent noted his objections on the record.

Counsel for the VSB and Respondent presented arguments regarding the sanction to be imposed on Respondent for the Misconduct found, and the Court recessed to deliberate.

DETERMINATION

In aggravation, the Court found that Respondent's conduct inflicted actual and potential injury on the public and the courts. Respondent's misconduct will cause the public to question the credibility of the offices of Commonwealth's Attorneys and question the validity of convictions. The Court also found Respondent's repeated denials that he made the Offer until the Court found he committed misconduct were an aggravating factor. Finally, the Court found as an aggravating factor that Respondent previously committed the same misconduct.

After due consideration of the evidence as to mitigation and aggravation, and the arguments of counsel, the Court reconvened to announce its sanction of SUSPENSION of Respondent's license to practice law in the Commonwealth of Virginia for a period of TWO YEARS, effective May 1, 2025. Respondent's Objections to the sanction were duly noted by the Court for the record.

Accordingly, it is hereby ORDERED that Respondent's license to practice law in the Commonwealth of Virginia be, and the same hereby is, SUSPENDED for a period of TWO YEARS, effective May 1, 2025.

It is further ORDERED that Respondent must comply with the requirements of Part Six, Section IV, Paragraph 13-29 of the Rules of the Supreme Court of Virginia. Respondent 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 Respondent is currently handling matters and to all opposing attorneys and presiding judges in pending litigation. Respondent must also make appropriate arrangements for the disposition of matters then in Respondent's care in conformity with the wishes of their clients. Respondent 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. Respondent 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 Respondent is not handling any client matters on the effective date of the Suspension, Respondent 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.

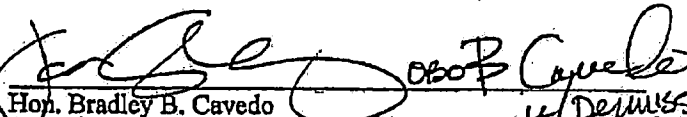
It is further ORDERED that the Clerk must send a copy teste of this order to Joseph Willis Lee, III, Respondent, at 4502 Autumn Lane NW, Roanoke, Virginia 24017; and to Paulo E. Franco, Jr., Respondent's Counsel, at ThompsonMcMullan P.C., 100 Shockoe Slip Floor 3, Richmond, Virginia 23219-4100; and to Shelley L. Spalding, 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.

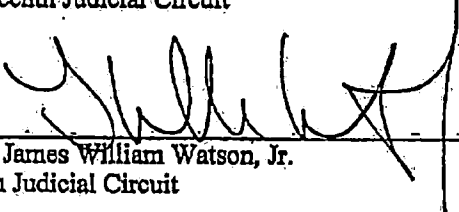
The proceedings were transcribed by Beverly Horne of Chandler and Halasz, Inc. Stenographic Court Reporters, P.O. Box 1975 Mechanicsville, Virginia 23116, phone number 804-730-1222.

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.

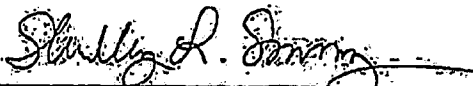
ENTERED this 8TH day of MAY, 2025


Hon. Jamilah D. LeCruise, Chief Judge for the Court
Fourth Judicial Circuit


Hon. Bradley B. Cavado
Thirteenth Judicial Circuit
u/permission


Hon. James William Watson, Jr.
Tenth Judicial Circuit

SEEN AND AGREED:



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SEEN AND OBJECTED TO for the reasons stated in Respondent's pleadings and as stated on the record as to the Court's rulings throughout the proceedings, its findings of Fact, findings of Misconduct, and the Sanction:



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