

**VIRGINIA:**

**BEFORE THE CIRCUIT COURT FOR THE CITY OF NORFOLK**

**VIRGINIA STATE BAR EX REL  
SECOND DISTRICT COMMITTEE**

**Complainant**

**v.**

**Case No. CL08-5324**

**CURTIS TYRONE BROWN**

**Respondent**

**MEMORANDUM ORDER OF SUSPENSION**

This matter came on to be heard on July 1, 2009, upon an Agreed Disposition between the parties that was presented this day to a Three-Judge Court impaneled by the Supreme Court of Virginia on October 23, 2008, by designation of the Chief Justice of the Supreme Court of Virginia, pursuant to Section 54.1-3935 of the Code of Virginia (1950) as Amended, consisting of the Honorable Robert G. O'Hara, Jr., Retired Judge of the Sixth Judicial Circuit, the Honorable George F. Tidey, Retired Judge of the Fourteenth Judicial Circuit, and the Honorable Westbrook J. Parker, Judge of the Fifth Judicial Circuit, designated Chief Judge.

Edward L. Davis, Bar Counsel, appeared as counsel for the Virginia State Bar, and the Respondent, Curtis Tyrone Brown, appeared in person with his counsel, Henry L. Marsh, III.

Pursuant to the Rules of the Supreme Court of Virginia, Part 6, Section IV, Paragraph 13-6.H, the Bar and Respondent entered into a written proposed Agreed Disposition and presented same to the Court.

The Court swore the Court Reporter and polled the members of the Court to determine whether any member had a personal or financial interest that might affect or reasonably be perceived to affect his or her ability to be impartial in these matters. Each member, including the Chief Judge, verified they had no such interests.

The Court heard argument from counsel and reviewed Respondent's prior disciplinary record with the Bar and thereafter retired to deliberate on the Agreed Disposition. Having considered all the evidence before it, the Court accepted the Agreed Disposition.

### **I. FINDINGS OF FACT**

The Court finds facts by clear and convincing evidence that the factual allegations contained in paragraphs 1-19 (one through nineteen) of the Subcommittee Determination (Certification), issued September 30, 2003, a copy of which is attached hereto as Exhibit A and incorporated herein, are true, and;

### **II. NATURE OF MISCONDUCT**

The Court finds that such conduct by Curtis Tyrone Brown constitutes misconduct in violation of the following 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;

**RULE 3.4 Fairness To Opposing Party And Counsel**

A lawyer shall not:

(d) Knowingly disobey or advise a client to disregard a standing rule or a ruling of a tribunal made in the course of a proceeding, but the lawyer may take steps, in good faith, to test the validity of such rule or ruling.

- (i) File a suit, initiate criminal charges, assert a position, conduct a defense, delay a trial, or take other action on behalf of the client when the lawyer knows or when it is obvious that such action would serve merely to harass or maliciously injure another.

**RULE 4.1 Truthfulness In Statements To Others**

In the course of representing a client a lawyer shall not knowingly:

- (a) make a false statement of fact or law; or

**RULE 8.4 Misconduct**

It is professional misconduct for a lawyer to:

- (c) engage in professional conduct involving dishonesty, fraud, deceit or misrepresentation;

**III. IMPOSITION OF SANCTION**

Having considered all the evidence before it and determined to accept the Agreed Disposition, the Court **ORDERS** that the Respondent's license to practice law in the Commonwealth of Virginia is **SUSPENDED** for a period of thirty (30) days, effective August 1, 2009.

In accordance with the Agreed Disposition in this matter, this **ORDER** is **FINAL** and **NON-APPEALABLE**.

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. The Respondent shall 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 he is currently

handling matters and to all opposing attorneys and presiding judges in pending litigation. The Respondent shall also make appropriate arrangements for the disposition of matters then in his care in conformity with the wishes of his client. Respondent shall give such notice within 14 days of the effective date of the suspension, and make such arrangements as are required herein within 45 days of the effective date of the suspension. The Respondent shall also furnish proof to the Bar within 60 days of the effective day of the suspension that such notices have been timely given and such arrangements made for the disposition of matters. (If no matters in the Respondent's care require arrangements for disposition as a result of this Order, then the Respondent need not furnish proof of any such arrangements.)

It is further **ORDERED** that if the Respondent is not handling any client matters on the effective date of the suspension, he shall submit an affidavit to that effect to the Clerk of the Disciplinary System at the Virginia State Bar. All issues concerning the adequacy of the notice and arrangements required by Paragraph 13-29 shall be determined by the Virginia State Bar Disciplinary Board, unless the Respondent makes a timely request for hearing before a three-judge court.

It is further **ORDERED** that costs shall be assessed by the Clerk of the Disciplinary System pursuant to the Rules of the Supreme Court of Virginia, Part Six, Section IV, Paragraph 13-9.E.

It is further **ORDERED** that the Clerk of the Court shall send a certified copy of this order to Curtis Tyrone Brown at The JANAF Office Building, Suite 210, 5900 East Virginia Beach Boulevard, Norfolk, Virginia 23502, his address of record with the Virginia State Bar, to Henry L. Marsh, III, the Respondent's Counsel, at Hill, Tucker & Marsh, P.L.L.C, 422 East

Franklin Street, Suite 301, Richmond, Virginia 23219, and to Edward L. Davis, Bar Counsel, at the Virginia State Bar, 707 East Main Street, Suite 1500, Richmond, Virginia 23219-2800.

Cynthia L. Noah, Court Reporter, of Ron Graham and Associates, 5344 Hickory Ridge, Virginia Beach, Virginia 23455-6680, telephone (757) 490-1100, transcribed the proceedings.

ENTERED: July 10, 2009

CIRCUIT COURT, CITY OF NORFOLK

By: Westbrook J. Parker  
Westbrook J. Parker, Chief Judge  
Three-Judge Court

SEEN AND AGREED:

Edward L. Davis  
Edward L. Davis, Bar Counsel  
Virginia State Bar  
707 East Main Street, Suite 1500  
Richmond, VA 23219-2800  
(804) 775-0566

Henry L. Marsh, III  
Henry L. Marsh, III  
Counsel for the Respondent  
Hill, Tucker & Marsh, P.L.L.C  
422 East Franklin Street, Suite 301  
Richmond, Virginia 23219  
(804) 648-9073

COPY FILED  
GEORGE E. SCHAEFER, CLERK  
NORFOLK CIRCUIT COURT  
BY: Janice O'Hern  
Authorized to sign on behalf  
of George E. Schaefer  
Date: 7-20-09

**VIRGINIA:**

**BEFORE THE FIRST DISTRICT SUBCOMMITTEE  
OF THE VIRGINIA STATE BAR**

**IN THE MATTER OF CURTIS TYRONE BROWN**

**VSB DOCKET NO. 00-010-2346**

**SUBCOMMITTEE DETERMINATION  
(CERTIFICATION)**

On October 4, 2002, a meeting in this matter was held before a duly convened subcommittee of the First District Committee consisting of Eugene M. Jordan, II, Esquire, Member, N. Douglas Burgoyne, Lay Member, and John W. Jelich, III, Esquire, Chair, presiding.

Pursuant to Part Six, Section IV, Paragraph 13.G.1 (b) of the Rules of the Supreme Court, the First District Subcommittee of the Virginia State Bar hereby serves upon the Respondent the following Certification:

**I. ALLEGATIONS OF FACT**

1. During all times relevant hereto, the Respondent, Curtis Tyrone Brown (hereinafter Respondent or Mr. Brown) was an attorney licensed to practice law in the Commonwealth of Virginia.
2. On November 3, 1999, a grand jury sitting in the Circuit Court for the City of Norfolk indicted Germaine S. Doss for the capital murder for hire of James M. Webb on March 23, 1998, and related offenses. The alleged murderer for hire was Nathaniel McGee.
3. Mr. Doss had previously been arrested and indicted for the same crime in May 1998; however, the charges were nolle prossed.
4. For a brief time in April 1998, Joseph C. Lindsey, Esquire, represented Mr. McGee, and withdrew as counsel. Thereafter, attorney Jerranld C. Jones was appointed by the court to represent McGee, and he did so until November 1998.

5. In December 1999, Mr. Doss hired the respondent, Curtis Tyrone Brown to represent him in the matter. Trial was scheduled to take place in February 2000 in the Norfolk Circuit Court.

6. On January 24, 2000, in the Norfolk Circuit Court, Mr. Brown endorsed and filed the following motion in the case of *Commonwealth of Virginia v. Jermaine S. Doss*:

**MOTION TO SUBPOENA**  
**COUNSEL OF CO-DEFENDANT, NATHANIEL MCGEE**

COMES NOW the Defendant, Germaine S. Doss, by counsel, and moves this Honorable Court for permission to subpoena Joseph Lindsey, Esquire, and Jerrauld Jones, Esquire to testify:

- 1) That Norman Thomas Esquire contacted them for help in fabricating a case against the Defendant; and
- 2) That these conversations were made prior to the Defendant ever being indicated on charges relating to the murder of James Webb.

**NOTICE**

PLEASE TAKE NOTICE that on February 3, 2000, at 10:00 a.m., or as soon thereafter as counsel may be heard, the Defendant, by counsel, will move this Honorable Court in accordance with the foregoing Motion.

7. Norman Thomas, Chief Deputy Commonwealth's Attorney for the City of Norfolk, was the prosecutor.

8. On January 31, 2000, Mr. Thomas filed a response to the motion, and a motion for sanctions, alleging that the grounds stated in the motion were groundless and false, that Mr. Brown had not talked to Mr. Lindsey until after he filed the motion, and that Mr. Lindsey had told Mr. Brown that he could not testify in support of the allegations.

9. On February 24, 2000, following an eight-day trial, a jury found Mr. Doss guilty of First Degree Murder, use of a firearm in the commission of a felony, statutory burglary, and conspiracy. It recommended a sentence of life plus 38 years.

10. On May 23, 2000, following a presentence report, the court imposed the sentence recommended by the jury.

11. On May 19, 2000, the court held an evidentiary hearing on Mr. Thomas' motion for sanctions against Mr. Brown.

12. Mr. Lindsey testified that Mr. Brown never communicated with him about the case prior to filing the motion, and that Mr. Thomas never asked him about fabricating a case against Mr. Doss. He testified further that Mr. Brown did speak to him after filing the motion, and told him to disregard a subpoena if he received one because his testimony was not necessary. Mr. Lindsey testified further that Mr. Brown told him words to the effect that he filed the motion to "either get Norman Thomas off balance or get under Norman Thomas' skin during the course of the prosecution of the case that was going on with Mr. Doss."

13. Likewise, Mr. Jones testified that Mr. Brown never communicated with him about the case prior to filing the motion, and that Mr. Thomas never asked him about fabricating a case against Mr. Doss.

14. The court made the specific finding that, before filing the motion, Mr. Brown did not speak to either Mr. Lindsey or Mr. Jones, that had Mr. Brown spoken to them he would have learned that Mr. Thomas never asked either of them to assist him in presenting false evidence in this case, that Mr. Brown did not care about the truth or falsity of his allegation, and that Mr. Lindsey's testimony established that Mr. Brown filed the motion to harass Mr. Thomas.

15. The court found further that the filing of the motion falsely accused Mr. Thomas of solicitation of perjury or attempting to suborn perjury, that it falsely accused Mr. Lindsey and Mr. Jones of violations of Rules 3.3d and 8.3a of the Rules of Professional Conduct and misprision of felony, and that such conduct by a member of the bar was outrageous and intolerable.

16. The court also held that Mr. Brown's defense, that the word "fabricate" meant to "build," was disingenuous. It held that the court's conclusion that Mr. Brown's use of the word "fabricate" meant to create a falsehood was strengthened by excerpts from Mr. Brown's closing arguments to the jury in the underlying case, in which he accused police detectives of manufacturing a case against his client.

17. The court concluded by finding that Mr. Brown violated Code of Virginia Section 8.01-271.1 by filing the motion, and that his conduct warranted a sanction that both punished him and compensated the Commonwealth's Attorney's office. It imposed a \$4,000 sanction against Mr. Brown, payable at the rate of \$1,000 per month. The order provided further that if Mr. Brown appealed the decision, and the sanction was affirmed on appeal, that the first payment became due on the first business day of the first month after the decision became final and unappealable.

18. Mr. Brown appealed the court's decision to the Court of Appeals of Virginia, petitioned for a rehearing and petitioned for review en banc, all of which was denied. He then petitioned for appeal to the Supreme Court of Virginia, and petitioned for a rehearing, both of which were denied. He then filed for a writ of certiorari to the Supreme Court of the United States, which was denied on April 29, 2002.

19. On October 16, 2002, having found that Mr. Brown had not paid any of the sanction as previously ordered, the court issued a rule to show cause against Mr. Brown, ordering him to appear on November 15, 2002. Subsequently, Mr Brown paid the sanction.

## **II. DISCIPLINARY RULE VIOLATIONS**

The following Rules of Professional Conduct are alleged to have been violated:

### **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;

### **RULE 3.4 Fairness To Opposing Party And Counsel**

A lawyer shall not:

- (d) Knowingly disobey or advise a client to disregard a standing rule or a ruling of a tribunal made in the course of a proceeding, but the lawyer may take steps, in good faith, to test the validity of such rule or ruling.
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### **RULE 8.4 Misconduct**

It is professional misconduct for a lawyer to:

- (c) engage in professional conduct involving dishonesty, fraud, deceit or misrepresentation;

**V. CERTIFICATION**

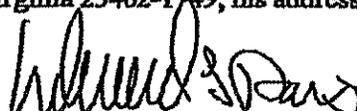
Accordingly, it is the decision of the Committee to certify the charges of misconduct to the Virginia State Bar Disciplinary Board.

**FIRST DISTRICT COMMITTEE  
OF THE VIRGINIA STATE BAR**

By   
John W. Jelich, III, Esquire  
Subcommittee Chair

**CERTIFICATE OF SERVICE**

I certify that I have this 30th day of September, 2003 caused to be mailed by CERTIFIED MAIL, RETURN RECEIPT REQUESTED, a true and correct copy of the District Committee Determination (Certification) to Curtis Tyrone Brown, Esquire, Respondent, Suite 306, 555 Fenchurch Street, Norfolk, Virginia 23510, his address of record with the Virginia State Bar, and to Chester L. Smith, Esquire, the Respondent's counsel, at Suite 110, 5441 Virginia Beach Boulevard, Virginia Beach, Virginia 23462-1749, his address of record with the Virginia State Bar.

  
Edward L. Davis, Assistant Bar Counsel