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BEFORE THE CIRCUIT COURT FOR THE CITY OF RICHMOND

IN THE MATTER OF
VAUGHAN CHRISTOPHER JONES

Case No. CL14-2256-7
VS
VS B CLERK'S OFFICE
VS B Docket No. 13-033-095600

MEMORANDUM ORDER

THIS CAUSE came to be heard by telephone conference on the 10th day of September, 2014, by a Three-Judge Circuit Court impaneled by the Supreme Court of Virginia on July 7, 2014, 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 John R. Cullen, Retired Judge of the Sixteenth Judicial Circuit, the Honorable William D. Hamblen, Retired Judge of the Thirty-First Judicial Circuit, and the Honorable Christopher W. Hutton, Judge of the Eighth Judicial Circuit, designated Chief Judge.

The Virginia State Bar appeared through its Bar Counsel, Edward L. Davis. The Respondent attorney, Vaughan Christopher Jones, was duly noticed and appeared by telephone with his attorney, Michael L. Rigsby, Esquire.

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 it to the Court.

The Chief Judge 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 the 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 parties stipulated to the following facts:

1. During all times relevant hereto, the Respondent, Vaughan Christopher Jones, was an attorney licensed to practice law in the Commonwealth of Virginia.
2. On October 13, 2012, Rajan Shrestha was arrested for the assault and battery of his wife, Sajana Maharjan, a family and household member, in violation of Virginia Code Section 18.2-57.2. Officer J.D. Bolland of the Henrico County Police Department obtained the arrest warrant after receiving the complaint from Ms. Maharjan.
3. Ms. Maharjan approached Officer Bolland in the parking lot of her apartment complex and filled out a written statement stating that her husband had bruised her eye and nose after trying to have sex with her. Officer Bolland observed her injuries and photographed them.
4. Trial was set for December 17, 2012, in the Henrico County Juvenile and Domestic Relations District Court.
5. On January 2, 2013, Mr. Shrestha hired Mr. Jones to defend him against the criminal charge. Over the Commonwealth's objection, trial of the case was continued to February 28, 2013.
6. On February 6, 2013, Ms. Maharjan met with Mr. Jones at his office. According to Mr. Jones, Ms. Maharjan said that her husband had not assaulted her, that she had been consuming alcohol the night of the incident, that they argued, that she initiated physical contact by hitting her husband, and that he had acted only in self-defense. Ms. Maharjan's testimony at trial was consistent with Ms. Maharjan's statements to Mr. Jones.
7. Mr. Jones presented Ms. Maharjan with an Accord and Satisfaction form that he had previously prepared.
8. The Accord and Satisfaction incorporated language from the Code of Virginia, stating that the complaining witness (Ms. Maharjan) had received full and complete legal satisfaction from the defendant, and that she requested dismissal of the criminal charges upon payment of

court costs pursuant to the provisions of Virginia Code Section 19.2-151.¹

9. The Accord and Satisfaction had additional language, however, stating that,

The initiation of criminal charges was the result of a misunderstanding. I further assert that no assault occurred and criminal conviction would be unjust. This assertion is made freely, truthfully, and voluntarily.

10. Jones did not advise Ms. Maharjan to consult with counsel prior to signing the Accord and Satisfaction.

11. On February 26, 2013, Mr. Jones met with prosecuting attorney Linda Scott to review her case file and discuss the case. At that time, Mr. Jones told Ms. Scott about the Accord and Satisfaction endorsed by Ms. Maharjan, the alleged victim in the case.

12. Ms. Scott contends that she told Mr. Jones about the inapplicability of an Accord and Satisfaction in domestic assault cases and that she showed him the statute. Mr. Jones denies this and, as explained in his letter to the bar, dated April 29, 2013, contends that he told Ms. Scott that Ms. Maharjan had denied the assault, and signed an Accord and Satisfaction at his office.

13. According to Mr. Jones, Ms. Scott replied that she recognized the witness was reluctant but that she (Ms. Scott) would proceed with the case at trial. Mr. Jones said that Ms. Scott did not voice any objection to the Accord and Satisfaction.

14. Though summoned, Ms. Maharjan failed to appear at the trial on February 28, 2013 and the court continued the case to April 25, 2013 over Mr. Jones' objection.

15. Statements attributed to Ms. Maharjan that she did not want to appear in court, that she signed the document because she wanted the case dismissed and that there was no coercion in her signing it, are consistent with statements that Ms. Maharjan made to Mr. Jones

16. Ms. Maharjan appeared for the rescheduled trial on April 25, 2013.

¹ **§ 19.2-151. Satisfaction and discharge of assault and similar charges.** — When a person is in jail or under a recognizance to answer a charge of assault and battery or other misdemeanor, or has been indicted for an assault and battery or other misdemeanor for which there is a remedy by civil action, unless the offense was committed (i) by or upon any law-enforcement officer, (ii) riotously in violation of §§ 18.2-404 to 18.2-407, (iii) against a family or household member in violation of § 18.2-57.2, or (iv) with intent to commit a felony, if the person injured appears before the court which made the commitment or took the recognizance, or before the court in which the indictment is pending, and acknowledges in writing that he has received satisfaction for the injury, the court may, in its discretion, by an order, supersede the commitment, discharge the recognizance, or dismiss the prosecution, upon payment by the defendant of costs accrued to the Commonwealth or any of its officers. (Code 1950, § 19.1-18; 1960, c. 366; 1968, c. 639; 1975, c. 495; 1997, c. 532; 1999, c. 963.)

17. The morning of trial, Ms. Maharjan approached Mr. Jones in the courthouse hallway and Mr. Jones briefly spoke with her.

18. Statements attributed to Ms. Maharjan that she saw Mr. Jones at court and told him that she wanted the case dismissed, and that Mr. Jones replied with words to the effect of, "Look, you signed the document and it's up to the judge now," are consistent with the statements that Ms. Maharjan made to Mr. Jones. Mr. Jones does not recall verbatim, but does recall generally, his brief conversation with Ms. Maharjan. During that conversation, Ms. Maharjan questioned why the prosecutor would not dismiss the case. Mr. Jones explained that notwithstanding the Accord and Satisfaction, the prosecution could go forward and the judge would decide the matter.

19. Trial began, the defendant pled not guilty, and Ms. Maharjan was called to the witness stand.

20. As trial commenced and Ms. Maharjan proceeded to the witness stand, Mr. Jones placed the Accord and Satisfaction on the counsel table. Jones states that the document was folded and placed in his iPad folder. When he opened his iPad folder to use his iPad during trial, he removed the folded document. Jones denies that the document was placed on defense counsel's table in order to influence Ms. Maharjan's testimony. Ms. Maharjan informed the bar's investigator that she believed she saw the document in Jones' folder when she was in the courtroom but that she did not recall seeing the document on defense counsel's table. Ms. Scott took issue with the document being present on defense counsel's table and wanted to question the witness about it.

21. Mr. Jones responded that he had not offered the Accord and Satisfaction into evidence or yet used it to impeach. The court allowed Ms. Scott to ask Ms. Maharjan questions about whether her testimony had been affected by the Accord and Satisfaction and whether she knew that the document was invalid. Ms. Maharjan testified that her testimony was not affected by the Accord and Satisfaction. Ms. Maharjan informed the bar's investigator that she never felt intimidated by Jones in court to testify a particular way, she did not feel pressured to sign the Accord and Satisfaction, and that she wanted the case against her husband to be dismissed.

22. Mr. Jones informed the bar's investigator that he understood that the Accord and Satisfaction could not be utilized without the concurrence of the Commonwealth, but that he brought it to court for the purpose of cross-examining Ms. Maharjan if she testified inconsistently with her prior statements to him.

23. Ms. Scott acknowledged as exculpatory evidence that Ms. Maharjan's statement to police differed from her testimony at trial. Further, the court raised a concern about Ms. Maharjan's Constitutional right not to incriminate herself for either perjury if the document was false, or false report if the statement to the police officer was untrue. Ms. Scott allowed for a grant of immunity to Ms. Maharjan against prosecution for perjury or making a false report to police, and the court questioned her about her signing the Accord and Satisfaction.

24. After trial the court found the evidence against Mr. Shrestha sufficient to support a finding of guilty but deferred adjudication for two years and ordered probation, in accordance with the Code of Virginia.

25. The court then held a hearing concerning Mr. Jones' use of the Accord and Satisfaction during which the court questioned Mr. Jones and Officer Bolland.

26. Mr. Jones told the court that he learned for the first time during the trial that the statute excluded domestic assault cases.

27. Ms. Scott informed the court about her prior meeting with Mr. Jones during which she informed Mr. Jones about the inapplicability of the Accord and Satisfaction statute in domestic assault cases and during which she showed him the statute.

28. Mr. Jones reported his conduct to the Virginia State Bar by letter, dated April 29, 2013, and sent a copy to the presiding judge.

29. At the time, Mr. Jones had been practicing law for more than fifteen years as both an Assistant Commonwealth's Attorney and criminal defense practitioner in Virginia.

II. NATURE OF MISCONDUCT

In accordance with the stipulation, the Court finds that such conduct by the Respondent constitutes misconduct in violation of the following provisions of the Rules of Professional Conduct:

RULE 1.1 Competence

A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

III. IMPOSITION OF SANCTION

Having considered all the evidence before it and determined to accept the Agreed Disposition, the Court ORDERS that the Respondent, Vaughan Christopher Jones, receive a

PUBLIC REPRIMAND with TERMS effective September 10, 2014.

The terms with which the Respondent must comply are as follows:

1. The Respondent is hereby placed on disciplinary probation for a period of one (1) year beginning September 12, 2014 through September 11, 2015. The Respondent will engage in no professional misconduct as defined by the Virginia Rules of Professional Conduct during such one-year probationary period. Any final determination of misconduct by any District Committee of the Virginia State Bar, the Disciplinary Board, or a three-judge circuit court to have occurred during such period will be deemed a violation of the terms and conditions of this Agreed Disposition and will result in the imposition of the alternate sanction, a thirty day Suspension of his License to Practice Law in the Commonwealth of Virginia. The alternate sanction will not be imposed while the Respondent is appealing any adverse decision that might result in a probation violation. For clarification, a mere complaint, or a subcommittee finding that the Respondent may reject in lieu of a hearing, for example, shall not constitute a violation of this term. Only a final determination of misconduct by any District Committee of the Virginia State Bar, the Disciplinary Board or a three-judge circuit court to have occurred during the one-year probationary period will be deemed a violation of this term.
2. By September 30, 2015, the Respondent will attend an additional twelve (12) hours of Continuing Legal Education (CLE) on the subject of Virginia criminal practice and procedure for no annual CLE credit. The Respondent will certify his attendance at the CLE(s) in writing to the Bar Counsel's Office at the Virginia State Bar by September 30, 2015.

Upon satisfactory proof that such terms and conditions have been met, this matter shall be closed. If, however, all the terms and conditions are not met by the deadlines imposed above, the Disciplinary Board shall suspend his license to practice law in the Commonwealth of Virginia for a period of Thirty (30) days pursuant to Rules of Court, Part Six, Section IV, Paragraph 13-18.

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

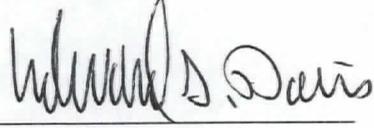
It is further ORDERED that a copy teste of this order shall be served by the Clerk of this Court upon the Respondent, Vaughan Christopher Jones, Esquire, by certified mail, return receipt requested, at 1622 West Main Street, Richmond, Virginia 23220, his address of record with the Virginia State Bar; and by regular mail to his counsel, Michael L. Rigsby, Esquire, at P.O. Box 29328, Henrico, Virginia 23242, and to Edward L. Davis, Bar Counsel, at the Virginia State Bar, Bank of America Building, Suite 700, 1111 East Main Street, Richmond, Virginia 23219.

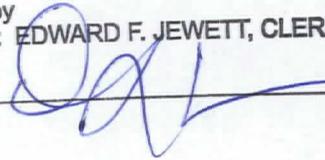
The court reporter who transcribed these proceedings is Jennifer Hairfield, Reporter, Chandler & Halasz, Court Reporters, P.O. Box 9349, Richmond, Virginia 23227, telephone number 804-730-1222.

ENTERED this 03 day of October, 2014.


CHRISTOPHER W. HUTTON
Chief Judge, Three-Judge Court

WE ASK FOR THIS:


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