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VIRGINIA: IN THE CIRCUIT COURT OF THE CITY OF SUFFOLK

JAN 8 2008

VIRGINIA STATE BAR EX REL
FIRST DISTRICT COMMITTEE

VSB CLERK'S OFFICE

v.

Case No. CL06-484

JOHNNIE EUGENE MIZELLE
[VSB Docket Nos. 05-010-2813 and 05-010-3969]

MEMORANDUM ORDER

On November 29, 2007, came the Virginia State Bar, represented by Richard E. Slaney, Assistant Bar Counsel, and the Respondent, Johnnie Eugene Mizelle, represented by Andrew M. Sacks, Esq., and presented a proposed Agreed Disposition endorsed by counsel and Mr. Mizelle, a copy of which is attached to and incorporated into this Order by this reference. The three Judges of the panel appointed by the Supreme Court of Virginia to hear this matter, the Honorable John E. Clarkson, Judge Designate, the Honorable Paul M. Peatross, Jr., Judge Designate, and the Honorable Gary A. Hicks, Chief Judge Designate, convened telephonically to hear argument and consider the proposed Agreed Disposition.

Having considered the argument and representations of counsel, the Three-Judge panel deliberated and voted to accept the proposed Agreed Disposition. As such, based on the Stipulations of Fact set forth in the Agreed Disposition, the Three-Judge panel

FINDS by clear and convincing evidence the conduct of the Respondent, Johnnie Eugene Mizelle, violates the following provision of the Rules of Professional Conduct:

RULE 8.4 Misconduct

It is professional misconduct for a lawyer to:

- (b) commit a criminal or deliberately wrongful act that reflects adversely on the lawyer's honesty, trustworthiness or fitness to practice law;....

Further, in accord with the terms of the Agreed Disposition, the Three-Judge panel

ORDERS that the license of the Respondent, Johnnie Eugene Mizelle, to practice law in the Commonwealth of Virginia is **SUSPENDED** for five (5) years, effective December 14, 2007. The Three-Judge panel further

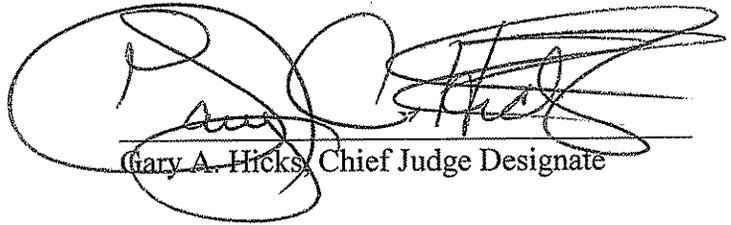
ORDERS that pursuant to the provisions of Part Six, Section IV, Paragraph 13(M) of the Rules of the Supreme Court of Virginia, the Respondent shall forthwith give notice by certified mail, return receipt requested, of the suspension of his license to practice law in the Commonwealth of Virginia, to all 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 clients. The Respondent shall give such notice within fourteen (14) days of the effective date of his suspension, and shall make such arrangements as are required herein within forty-five (45) days of the effective date of his suspension. Respondent shall also furnish proof to the Clerk of the Virginia State Bar Disciplinary System within sixty (60) days of the effective date of his suspension that such notices have been timely given and such arrangements for the disposition of matters have been made. Issues concerning the adequacy of the notice and arrangements required shall be determined by the Virginia State Bar Disciplinary Board, which may impose a sanction of revocation or further suspension for failure to comply with the requirements of Part Six, Section IV, Paragraph 13(M). The Three-Judge panel further

ORDERS that pursuant to Part Six, Section IV, ¶ 13(B)(8)(c) of the Rules of the Supreme Court, the Clerk of the Disciplinary System shall assess costs. The Three-Judge panel

further

ORDERS that an attested copy of this Order be mailed, postage prepaid, to the Respondent, Johnny E. Mizelle, Esq., at 528 West Washington Street, P.O. Box 374, Suffolk, Virginia 23434-0374, his last address of record with the Virginia State Bar, to Respondent's Counsel, Andrew M. Sacks, Esq., at P.O. Box 3874, Norfolk, Virginia 23514-3874, and to Assistant Bar Counsel Richard E. Slaney, at 707 East Main Street, Suite 1500, Richmond, Virginia 23219.

ENTERED: 01-14-08

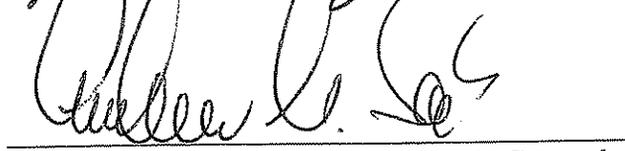


(Gary A. Hicks, Chief Judge Designate

We ask for this:



Richard E. Slaney, Assistant Bar Counsel



Andrew M. Sacks, Esq., Respondent's Counsel

TRUE COPY
I certify that the document to which this authentication is affixed is a true copy of a record in the Suffolk Circuit Court, that I have custody of the record, and that I am the custodian of that record.
TESTE: W. RANDOLPH CARTER JR., CLERK
BY: B. Epps D.C.
DATE: 1/15/08

VIRGINIA: IN THE CIRCUIT COURT OF THE CITY OF SUFFOLK

VIRGINIA STATE BAR EX REL
FIRST DISTRICT COMMITTEE,

Complainant,

v.

Case No. CL06-484

JOHNNIE EUGENE MIZELLE,

Respondent.

AGREED DISPOSITION

Pursuant to the Rules of the Supreme Court of Virginia, Part 6, Section IV, & 13(B)(5)(c), the Virginia State Bar, by Richard E. Slaney, Assistant Bar Counsel, and the Respondent, Johnnie Eugene Mizelle, Esq., and his counsel, Andrew M. Sacks, Esq., hereby enter into the following Agreed Disposition arising out of the above-referenced matter:

I. STIPULATIONS OF FACT

1. At all times material to these matters, the Respondent, Johnnie Eugene Mizelle (Mizelle) was an attorney licensed to practice law in the Commonwealth of Virginia.

The Greene Complaint 05-010-3969

2. In July of 2004, one Tammy Greene (Greene) hired Mizelle for divorce representation. By November of 2004, Greene owed Mizelle several hundred dollars in legal fees.

3. At a meeting in November of 2004, Greene told Mizelle she could not pay him until she received her tax refund. Greene claims Mizelle suggested Greene could reduce her bill by engaging in oral sex with him.

4. Subsequently, Greene went to the Suffolk police, who suggested she return to

Mizelle's office carrying hidden audio and video recording equipment provided by them. In early December, Greene did so. Greene referenced what she claims was Mizelle's earlier offer, and Mizelle agreed he would reduce her bill if she engaged in oral sex with him. Mizelle contends that he had no such intentions, but only wanted to see why Greene was saying such things. Mizelle also left his side of his desk, sat next to Greene and according to her touched her breast. Despite the fact the police were monitoring the meeting, Greene made an excuse and abruptly left Mizelle's office.

5. Mizelle was charged with assault and battery and solicitation for prostitution. Pursuant to a plea agreement, Mizelle entered an Alford plea to the assault and battery charge and the solicitation for prostitution charge was nolle prossed. As per the plea agreement Mizelle was given a 12 month suspended sentence and was ordered to pay costs.

6. As a result of the media coverage of the charges against Mizelle, several other women came forward and claimed Mizelle made similar suggestions and/or assaulted them, as follows:

- Patricia Orr, who claims in 1997 she met with Mizelle in regard to charges against her husband; claims that Mizelle touched her inappropriately; said that if she was "nice" to him she wouldn't have to worry about legal fees; and that, when discussing possible legal action for a coffee burn she received, he asked her to show him the burn and made inappropriate, sexual comments when she complied.
- Penny Heigl, who testified via deposition (prior to her death) that in 2000 while representing her Mizelle made inappropriate remarks to her and offered to

discount the legal fees she owed him if she would accompany him to a hotel room.

- Robin Patterson, who claims that in 2000 Mizelle was appointed as guardian *ad litem* in her divorce case; that he touched her inappropriately and made inappropriate remarks to her.
- Lillian Matthews, who claims via affidavit that in the mid-1970's while representing her in a divorce Mizelle suggested she engage in oral sex with him in return for a reduction in fees she owed him.

The Potter/Shannon Complaint 05-010-2813

7. In 2001, one Kelly Ann Shannon (Shannon) was facing criminal charges and Mizelle was appointed to represent her.

8. At their first meeting, Shannon claims Mizelle told her he recognized her and stated he heard she was skilled at providing oral sex. She claims he then asked her to approach him, pulled her to him and put her hand on his genitals (over top of his pants). Shannon then left Mizelle's office.

9. Mizelle called Shannon several times, but Shannon did not return his calls.

10. On the day of Shannon's hearing, Mizelle approached her and told her she should plead guilty. Shannon refused to plead guilty and the hearing was continued. Later, Shannon got a letter saying the charges were nolle prossed.

11. Shannon's boyfriend, William Potter, filed the complaint against Mizelle.

12. Mizelle has been for many years a highly respected member of the Suffolk community, at one point serving as the city mayor. The parties anticipate a significant number of witnesses would be called to testify to his good works and respected character at the penalty phase of any hearing.

13. Mizelle has been a practicing attorney in Virginia since 1976. The only other discipline against him was a Dismissal with Terms in 1996 for conduct unrelated to the type of conduct alleged in this matter.

II. RULES OF PROFESSIONAL CONDUCT

Assistant Bar Counsel and the Respondent agree the above factual stipulation gives rise to a finding of violations of the following Rules of Professional Conduct:

RULE 8.4 Misconduct

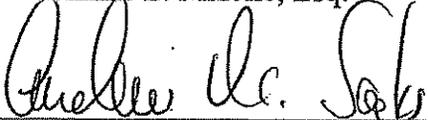
It is professional misconduct for a lawyer to:

- (b) commit a criminal or deliberately wrongful act that reflects adversely on the lawyer's honesty, trustworthiness or fitness to practice law;

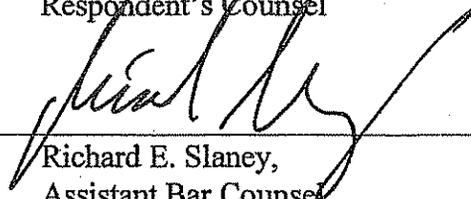
III. PROPOSED DISPOSITION

Accordingly, Assistant Bar Counsel and the Respondent tender to the Three-Judge Panel for its approval the agreed disposition of a five (5) year suspension of Respondent's law license as representing an appropriate sanction if this matter were to be heard in an evidentiary hearing by the Three-Judge Panel. Upon acceptance by the Panel of this Agreed Disposition, the Respondent shall be given a five (5) year suspension and these matters shall be closed. The Respondent also agrees his prior disciplinary record may be disclosed to the Panel.


Johnnie E. Mizelle, Esq.


Andrew M. Sacks, Esq.,

Respondent's Counsel

A handwritten signature in black ink, appearing to read "Richard E. Slaney", is written over a horizontal line.

Richard E. Slaney,
Assistant Bar Counsel