

**VIRGINIA:**

**BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD**

**IN THE MATTERS OF  
BRIAN KRAIG TELFAIR**

**VSJ Docket Nos. 17-032-108498**

**ORDER**

**THIS MATTER** came to be heard on September 28, 2018, on the District Committee Determination for Certification by the Third District Committee, before a panel of the Virginia State Bar Disciplinary Board (“Board”) consisting of Michael A. Beverly, Chair, Michael J. Sobey, Nancy L. Bloom, Lay Member, Carolyn V. Grady, and Bretta Z. Lewis, The Virginia State Bar (the “VSB”) was represented by Laura A. Booberg (“Bar Counsel”). The Respondent Brian Kraig Telfair (hereinafter “the Respondent”) was present and was represented by Leslie A.T. Haley. Tracy J. Stroh, court reporter, Chandler & Halasz, P.O. Box 9349, Richmond, Virginia 23227, (804) 730-1222, after being duly sworn, reported the hearing and transcribed the proceedings.

At the outset of the hearing, the Chair polled the members of the panel as to whether any of them was conscious of any personal or financial interest or bias which would preclude any of them from fairly hearing this matter and serving on the panel, to which inquiry each member responded in the negative.

All legal notices of the date and place were timely sent by the Clerk of the Disciplinary System (“Clerk”) in the manner prescribed by the Rules of Supreme Court of Virginia, Part Six, Section IV, Paragraph 13-18 of the Rules of Court.

Prior to the proceedings, VSB Exhibits 1-5 and Respondent’s Exhibits 1-4 were admitted into evidence by the Chair without objection. By agreement between the VSB and the Respondent, the Respondent stipulated to Violations of Rules 8.4 (a), (b) and (c) of the Rules of

Professional Conduct, see Stipulations of Fact and Misconduct (herein incorporated by reference).

### **MISCONDUCT**

Brian Kraig Telfair (hereinafter “the Respondent”) was an attorney licensed to practice law in the Commonwealth of Virginia at all times relevant to the conduct set forth herein. Respondent and the VSB stipulated that he violated Rules 8.4 (a), (b) and (c). Specific Findings of Fact made by the District Committee, to which the Respondent stipulated regarding the nature and circumstances of his misconduct, are contained within the Stipulations of Fact and Misconduct. The Board moved directly to the sanctions phase of the proceedings and heard evidence of mitigation and aggravation.

### **SANCTION PHASE OF HEARING**

The Bar admitted the Respondent’s disciplinary record as Exhibit 6. During the Respondent’s testimony, the Bar admitted Exhibits 7 – 9 with no objection from Respondent’s Counsel. Exhibit 10 was admitted over the objection of Respondent’s Counsel.

After opening arguments, the VSB called the Respondent, Brian Kraig Telfair, who testified regarding his legal experience, the stressful environment working as Petersburg City Attorney under the direction and control of the Petersburg City Council, his mental and emotional state as a result of this environment, his treatment with Dr. Sharlene P. Johnson, Clinical Psychologist, treatment with Lawyers Helping Lawyers, his inability to find consistent substantive legal work following his arrest and his lack of recollection of the facts and circumstances of his actions on February 16, 2016 that lead to his arrest for making a false police report. The VSB examined Respondent. After the VSB completed examination of Respondent, he was examined by his Counsel. After the conclusion of the examination of the Respondent, the Respondent answered questions asked by the panel members. During examination by the panel,

VSB Exhibit 11 was admitted without objection. After the close of the examination by the panel, VSB Exhibit 12 was admitted without objection. The Bar concluded its case.

The Respondent called Dr. Sharlene P. Johnson, Clinical Psychologist, as a witness. Dr. Johnson testified regarding the treatment she has provided to Respondent, including information that she diagnosed him with certain conditions and ruled out other conditions. She testified regarding diagnostic tools that she employed, as well as the Respondent's level of functioning when she first began treating him as well as her assessment of his current level of functioning. She testified that she believed that Respondent's issues that contributed to his actions in 2016 were exacerbated by the stress he was experiencing during his employment in the Petersburg City Attorney's Office. Dr. Johnson testified that she believes that Respondent is currently capable of functioning at a level that would allow him to perform his duties as an attorney, provided that he adheres to his treatment protocols including medications. During the VSB cross-examination of Dr. Johnson, her records regarding Mr. Telfair's treatment were admitted into evidence as VSB Exhibit 13 without objection.

The Respondent called James Leffler of Lawyers Helping Lawyers as a witness. He testified regarding the assistance he and his program have provided to Respondent. He offered the opinion that Respondent's mental state has improved greatly. Mr. Leffler offered the opinion that Respondent appears to be functioning in a manner that indicates that he is currently capable of performing the duties expected of a practicing attorney. Mr. Leffler was cross examined by the Bar. Members of the Panel asked questions of Mr. Leffler. The Respondent was called back to the stand by his Counsel for redirection. Members of the panel asked the Respondent questions. At the close of evidence, Counsel presented closing arguments.

## **THE BOARD'S FINDINGS & DISPOSITION**

Having received and adopted the Stipulations of Fact, incorporated herein by reference, admitting the violations contained in the Certification received into evidence, and having considered the testimony and evidence presented regarding aggravation and mitigation at the hearing, the Board recessed to deliberate. After due deliberations, the Board reconvened in the hearing room and stated its finding for the record that the VSB and Respondent had stipulated to the Rule violations charged. After due deliberation and review of the findings of fact, upon review of Exhibits 1-13 presented by Bar Counsel on behalf of the VSB, upon review of Respondent's Exhibits 1-4, upon the testimony from the witness presented on behalf of the VSB and upon the testimony of witnesses presented by Respondent, the Board reconvened and stated its finding that aggravating factors include the Respondent's prior disciplinary record and his lack of candor before the tribunal related to his legal employment following his time as the Petersburg City Attorney. The Board stated that mitigating factors include Respondent's evidence regarding his personal and emotional problems during the period in which the violations occurred, the diagnoses to which Dr. Johnson testified, his cooperative attitude towards the Bar during the investigation of this incident, his interim rehabilitation with Lawyers Helping Lawyers, the imposition of other penalties, such as his incarceration, restitution, and his inability to obtain consistent substantive legal employment, and his statement of remorse. The Board also notes that the Respondent has taken action to rectify his conduct and prevent future violations, including attending counseling and adhering to a regimen of medication as recommended by his treatment providers.

Therefore, upon consideration of the evidence and the nature of the misconduct committed by the Respondent, it is ORDERED, by unanimous vote of the Board, that the Respondent's license to practice law in the Commonwealth of Virginia is suspended for a period of ninety (90) days, effective September 28, 2018.

It is further ORDERED that, as directed in the Board's September 28, 2018 Order in this matter, Respondent must comply with the requirements of Part Six, § IV, ¶ 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 ninety (90) day 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. Respondent shall give such notice within 14 days of the effective date of September 28, 2018 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.

It is further ORDERED that if the Respondent is not handling any client matters on the effective date of September 28, 2018, the Respondent shall submit an affidavit to that effect to the Clerk of the Disciplinary System at the Virginia State Bar within 60 days of the effective day of the suspension. 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, which may impose a sanction of Revocation or additional Suspension for failure to comply with the requirements of this subparagraph.

It is further ORDERED that pursuant to Part Six, § IV, ¶ 13-9 E. of the Rules of the Supreme Court of Virginia, the Clerk of the Disciplinary System shall assess all costs against the Respondent.

It is further ORDERED that the Clerk of the Disciplinary System shall mail an attested copy of this Opinion and Order to Respondent, Brian Kraig Telfair, at his address of record with the Virginia State Bar, being 3007 Brook Road, Richmond, Virginia, 23227, by certified mail, return receipt requested; by regular mail to Respondent's Counsel, Lesley A.T. Haley, Park Haley, LLP, 1011 East Main Street, Suite 300, Richmond, Virginia 23219; and by hand delivery

to Laura Booberg Assistant Bar Counsel, Virginia State Bar, 1111 East Main Street, Suite 700,  
Richmond, Virginia 23219-0026.

This Order is final.

ENTERED this 15th day of October, 2018.

VIRGINIA STATE BAR DISCIPLINARY BOARD

A handwritten signature in black ink, appearing to be 'MB', written over a horizontal line.

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Michael A. Beverly  
Chair