

IN DISCIPLINARY DISTRICT V  
OF THE  
BOARD OF PROFESSIONAL RESPONSIBILITY  
OF THE  
SUPREME COURT OF TENNESSEE

2017 AUG 28 PM 1:16

BOARD OF PROFESSIONAL  
RESPONSIBILITY

IN RE: LONIEL GREENE, JR.,  
BPR# 30906, Respondent  
An Attorney Licensed to  
Practice Law in Tennessee  
(Davidson County)

DOCKET NO. 2016-2631-5-WM

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**FINDINGS OF FACT, CONCLUSIONS OF LAW AND JUDGMENT**

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This matter came on for hearing on July 13, 2017 before a Hearing Panel consisting of Andrew B. Campbell, Panel Member; William R. O'Bryan, Jr., Panel Member; and Peter C. Sales, Panel Chair. The Board of Professional Responsibility (the "Board") was represented by William Moody. Mr. Loniel Greene, Jr. ("Respondent") was present for the hearing.

**FINDINGS OF FACT**

1. The Revised Scheduling Order in this matter provided the following dates and obligations on the parties:

- a. The deadlines for all discovery to be completed shall be May 23, 2017;
- b. Exhibit and witness lists shall be filed, and copies of exhibits shall be provided to the members of the Hearing Panel, by June 29, 2017;
- c. Pre-trial briefs shall be filed by June 29, 2017; and
- d. The hearing on this matter will be held on July 13, 2017 at 9:00 a.m. CDT at a location to be determined by the Executive Secretary for the Board. The

Respondent is entitled to be represented by counsel, to cross-examine witnesses, and to present evidence on his own behalf.

2. Respondent did not provide any competent evidence of any disability.<sup>1</sup>
2. Respondent did not file or serve any Exhibit List.
3. Respondent did not file or serve a Witness List.
4. Respondent did not file or serve a Pre-Trial Brief.
5. On July 12, 2017, the day before the properly noticed and scheduled hearing,

Respondent requested a continuance. The stated grounds for the continuance were:

- a. Respondent intended to raise an insanity defense;
- b. Respondent had requested but had not received the records necessary to support his insanity defense; and
- c. Respondent was notified on July 11, 2017 that one of the witnesses Respondent intended to call to attack the credibility of one of the Board's noticed witnesses was not available.

6. On July 12, 2017, the Panel informed the parties that it would decide the Motion for Continuance at the hearing but that "all parties should appear tomorrow fully prepared to proceed with the scheduled hearing."

7. Based upon the pleadings, the previous request for continuance, the Scheduling Order, and Respondent's failure to file either a Witness List or an Exhibit List, the Hearing Panel respectfully denied the late filed request for continuance.<sup>2</sup>

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<sup>1</sup> Plaintiff testified on his own behalf, and stated that he had been diagnosed with a condition which affected his judgment during the time period relevant to this proceeding. Plaintiff, however, has no medical background and, therefore, is incompetent to render an opinion on the existence and/or effects of such a condition. Further, his testimony as to the existence of such a diagnosis is hearsay. Lastly, Plaintiff proffered no qualified medical expert to testify on this issue.

8. Respondent did not present the testimony of any witnesses.

9. Respondent testified on his own behalf.

10. Respondent's cousin, Tavares Buchanan (aka "Bobby"), was arrested on December 30, 2015 and charged with domestic violence crimes based on the accusation of his girlfriend, Sparkle Johnson.

11. Mr. Buchanan was held in the Davidson County Jail under \$100,000 bond.

12. A number of telephone calls between Mr. Buchanan and Respondent, while Mr. Buchanan was in jail, were recorded. A recording of excerpts of those telephone calls was admitted as Exhibit 2. A transcription of the excerpts was admitted as Exhibit 3.

13. A bond source hearing, to determine the source of the funds used to pay the premium for Mr. Buchanan's bond, was held on January 6, 2016.

14. Mr. Buchanan's bond source hearing was discussed during telephone calls between Mr. Buchanan and Respondent while Mr. Buchanan was still in jail and prior to the bond source hearing. As reflected in the recorded telephone calls and the transcripts of such calls, Respondent agreed to testify at the bond source hearing that Respondent's own personal funds were used to pay the premium for the bond, even though it would be Mr. Buchanan's money that was actually used.

15. On January 6, 2016, Respondent falsely testified under oath at the bond source hearing that his own personal funds were the source of the bond and Mr. Buchanan was released on bond.

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<sup>2</sup> With regard to Plaintiff's desire to assert an insanity defense, Disciplinary Counsel properly pointed out that -- while proper evidence of mental incapacity may be a mitigating factor for consideration in the context of appropriate punishment or sanction -- "insanity" is not a "defense" in this proceeding against a finding of liability for the violations asserted.

16. Respondent did not recant his testimony prior to the conclusion of the January 6, 2016 bond source hearing.

17. Thereafter, the State moved to revoke Mr. Buchanan's bond. A hearing was held on that motion on February 3, 2016. At that hearing, Respondent testified that his funds were not the source of the bond and further admitted that his testimony during the prior hearing on January 6<sup>th</sup> was false. Mr. Buchanan's bond was revoked.

18. In addition to discussions regarding the bond source hearing, Mr. Buchanan and Respondent also telephonically discussed Respondent attempting to persuade Ms. Johnson not to testify against Mr. Buchanan at Mr. Buchanan's criminal trial. The statements Respondent made to Mr. Buchanan, which also were recorded, include the following.

- She gonna have to be shut down.
- I'll deal with her.
- Let me work on her.
- They gonna need her to move forward and let me work on her.
- I'm gonna work on her because guess what, I ain't gonna tell it on the phone.
- I'll go ahead and do it and try and get her not to come to court.

19. During the course of these recorded telephone conversations, Respondent also told Mr. Buchanan he affirmatively had made the following statements to Ms. Johnson:

- You're both family, and you want to still be considered family, you can't harm one family member and everybody's gonna be okay.

- You can't try to throw him up the river and think you're gonna be accepted in the family.
- You trying to play the system. M----r F----r, I am the system.

### CONCLUSIONS OF LAW

1. Pursuant to Tenn. Sup. Ct. R. 9, § 1, the license to practice law in this state is a privilege, and it is the duty of every recipient of that privilege to conduct himself or herself at all times in conformity with the standards imposed upon members of the bar as conditions for the privilege to practice law. Acts or omissions by an attorney which violate the Rules of Professional Conduct of the State of Tennessee shall constitute misconduct and be grounds for discipline.

2. By testifying that his funds were the source of the bond, Respondent deliberately and unlawfully made a false statement of fact to a tribunal and made a material false statement under oath during an official proceeding.

3. By testifying falsely at the January 6, 2016 bond source hearing, Respondent violated RPC 3.3(a)(1) (Candor toward the Tribunal) and 8.4(b), (c) and (d) (Misconduct).

4. Respondent deliberately and unlawfully attempted to obstruct the State's access to Ms. Johnson's testimony, requested that she voluntarily refrain from testifying and attempted to render her unavailable to testify at trial.

5. By means of coercion, Respondent attempted to influence Ms. Johnson with the intent of preventing her from testifying truthfully in, and/or to be absent from, the proceeding against Mr. Buchanan in violation of T.C.A. § 39-16-507.

6. By attempting to influence Ms. Johnson, Respondent violated RPC 3.4(a), (f) and (g) (Fairness to Opposing Party and Counsel) and 8.4(b) and (d) (Misconduct).

7. The preponderance of the evidence establishes that Respondent has committed the following violations of the Rules of Professional Conduct.

- a. Respondent violated RPC 3.3(a)(1) (Candor toward the Tribunal).
- b. Respondent violated RPC 3.4(a), (f) and (g) (Fairness to Opposing Party and Counsel).
- c. Respondent violated RPC 8.4(a), (b), (c) and (d) (Misconduct).
- d. Violation of the aforementioned Rules of Professional Conduct constitutes a violation of RPC 8.4(a) (Misconduct).

8. The Board has the burden of proving violations of the Rules of Professional Conduct by a preponderance of the evidence. The Board has carried its burden and proven the aforementioned violations of the Rules of Professional Conduct by a preponderance of the evidence.

9. Once disciplinary violations have been established, the Panel shall consider the applicable provisions of ABA Standards for Imposing Lawyer Sanctions.

10. Prior to consideration of any aggravating or mitigating circumstances, the following ABA Standards apply to this case:

5.11 Disbarment is generally appropriate when:

- (a) a lawyer engages in serious criminal conduct a necessary element of which includes intentional interference with the administration of justice, false swearing, misrepresentation, fraud, extortion, misappropriation, or theft; or the sale, distribution or importation of controlled substances;

or the intentional killing of another; or an attempt or conspiracy or solicitation of another to commit any of these offenses; or

(b) a lawyer engages in any other intentional conduct involving dishonesty, fraud, deceit, or misrepresentation that seriously adversely reflects on the lawyer's fitness to practice.

6.11 Disbarment is generally appropriate when a lawyer, with the intent to deceive the court, makes a false statement, submits a false document, or improperly withholds material information, and causes serious or potentially serious injury to a party, or causes a significant or potentially significant adverse effect on the legal proceeding.

6.21 Disbarment is generally appropriate when a lawyer knowingly violates a court order or rule with the intent to obtain a benefit for the lawyer or another, and causes serious injury or potentially serious injury to a party or causes serious or potentially serious interference with a legal proceeding.

6.31 Disbarment is generally appropriate when a lawyer:

(a) intentionally tampers with a witness and causes serious or potentially serious injury to a party, or causes significant or potentially significant interference with the outcome of the legal proceeding

12. Pursuant to ABA Standard 9.23, no mitigating factors are present in this case.

13. Based upon the evidence and admissions in this matter, the Panel finds that disbarment is the appropriate discipline.

### **JUDGMENT**

In light of the Findings of Fact and Conclusions of Law and the aggravating and mitigating factors set forth above, the Hearing Panel hereby finds that Respondent should be disbarred. Lastly, the Panel hereby assesses costs in the amount of \$1,671.73 against the Respondent. **This judgment may be appealed pursuant to Tenn. Sup. Ct. R. 9, § 33 (2014) by filing a Petition for Review in the Circuit or Chancery court within sixty (60) days of the date of entry of the hearing panel's judgment.**

August 28, 2017

IT IS SO ORDERED.



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Peter C. Sales, Panel Chair



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Andrew B. Campbell, Panel Member



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William R. O'Bryan, Jr., Panel Member



**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing has been sent to Respondent, Loniell Greene, Jr., 29 Benzing Road, Antioch TN 37013, by U.S. First Class Mail, and hand-delivered to William C. Moody, Disciplinary Counsel, on this the 28th day of August, 2017.

A handwritten signature in cursive script, reading "Rita Webb", written over a horizontal line.

Rita Webb  
Executive Secretary