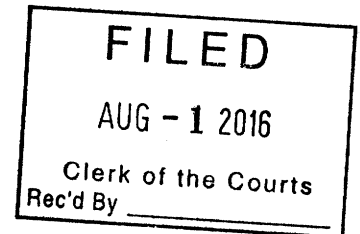


IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

IN RE: WENDAL DOUGLAS JACKSON, BPR #1370

An Attorney Licensed to Practice Law in Tennessee
(Sullivan County)

No. M2016-01552-SC-BAR-BP
BOPR No. 2016-2611-1-WM(22.3)



ORDER OF ENFORCEMENT

This matter is before the Court pursuant to Tenn. Sup. Ct. R. 9, § 22.3, upon a Notice of Submission filed by Disciplinary Counsel for the Board of Professional Responsibility consisting of a certified copy of the Court Finding of Facts and Ruling in the Criminal Court for Sullivan County, Tennessee, in the matter of *State of Tennessee v. Wendal Douglas Jackson* (attached as Exhibit A) demonstrating that Wendal Douglas Jackson, a Tennessee attorney, has been found guilty of a serious crime, i.e., violation of T.C.A. § 39-12-101: criminal attempt to commit extortion.

On June 17, 2016, Mr. Jackson was temporarily suspended by this Court pursuant to Tenn. Sup. Ct. R. 9, § 12.3 (Case No. M2016-01214-SC-BAR-BP). To date, Mr. Jackson has not requested, nor been granted reinstatement. On July 28, 2016, Mr. Jackson was transferred to disability inactive status pursuant to Tenn. Sup. Ct. R. 9, § 27 (Case No. M2016-00831-SC-BAR-BP).

IT IS THEREFORE, CONSIDERED, ORDERED, ADJUDGED AND DECREED BY THE COURT THAT:

1. Wendal Douglas Jackson is suspended from the practice of law on this date pending further orders of this Court, pursuant to Tenn. Sup. Ct. R. 9, § 22.3;
2. This matter shall be referred to the Board of Professional Responsibility for the institution of a formal proceeding, at such time as Wendal Douglas Jackson's disability inactive status may be removed in the future, in which the sole issue to be determined shall be the extent of the final discipline;
3. Further, the Order of Temporary Suspension entered on June 17, 2016, in Case No. M2016-01214-SC-BAR-BP, and the Order Transferring Attorney to Disability Inactive Status entered on July 28, 2016, in Case No. M2016-00831-SC-BAR-BP, shall remain in effect until further orders of this Court.

4. Wendal Douglas Jackson shall fully comply with the provisions of Tenn. Sup. Ct. R. 9, § 28, concerning disbarred or suspended attorneys; and

5. The Board of Professional Responsibility shall cause notice of this suspension to be published as required by Tenn. Sup. Ct. R. 9, § 28.11.

PER CURIAM

IN THE CIRCUIT COURT FOR SULLIVAN COUNTY,
CRIMINAL DIVISION II,
AT BLOUNTVILLE, TENNESSEE

STATE OF TENNESSEE,

V.

WENDAL JACKSON.

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CASE NO(s). S65473

Transcript:

BENCH TRIAL
Court Finding of Facts and Ruling

July 5, 2016

HONORABLE ALEX E. PEARSON, PRESIDING JUDGE,
SITTING BY INTERCHANGE

Original

APPEARANCES:

FOR THE STATE (PRO TEM):

WILLIAM BROWNLOW MARSH
District Attorney General
Fourth Judicial District
Sevierville, Tennessee

FOR THE DEFENDANT:

WENDAL D. JACKSON
Attorney at Law
Bristol, Tennessee



423-525-3407

MELANIE L. SCHALLOCK
Certified Verbatim Reporter - Master • Official Court Reporter
Second Judicial District
State of Tennessee

mls3003@gmail.com

Exhibit A

IN THE CIRCUIT COURT FOR SULLIVAN COUNTY,
CRIMINAL DIVISION II,
AT BLOUNTVILLE, TENNESSEE

STATE OF TENNESSEE,

V.

WENDAL JACKSON.

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CASE NO(s). S65473

THIS CAUSE came on to be heard and was heard on the 5th
day of July, 2016, before the Honorable Alex E. Pearson, Judge,
sitting by interchange in the Criminal Court, Division II, for
Sullivan County at Blountville, Tennessee.

BENCH TRIAL

Court Finding of Facts and Ruling

(All the parties being present in the courtroom, the
following proceedings were held.)

THE COURT: Okay. All right. We're back in Case
#S65473, *State of Tennessee v. Wendal Jackson*.

Court has heard testimony of numerous witness today —
witnesses today. And it's an interesting case factually
for the Court to consider. Obviously there are two
different versions of events that happened. We have three

1 witnesses saying that they never met with Mr. Jackson.
2 Then we have Mr. Jackson and his assistant at the time
3 saying that she was there and he was there. And not only
4 did they meet, but they procured a signed HIPAA form, and
5 that a meeting allegedly happened at McDonald's.

6 Well, obviously those two versions of events can't
7 both be true. Somebody is giving false testimony in the
8 Court's mind with respect to that because they're just —
9 they're just too different.

10 Of particular interest also to the Court is for — in
11 the statement to the officers that were made or the officer
12 that was made—I think there were two officers that was in
13 the room—but there was a statement by Mr. Jackson, "*I did*
14 *not have a HIPAA release signed by Mrs. Fields.*" Then Mr.
15 Jackson acknowledged during cross-examination that he had
16 previously testified in a civil hearing to the same while
17 under oath, that he had not procured a HIPAA release.

18 But one thing is clear, and that's that there was
19 never any written contract to represent anybody in this
20 case. I mean, there was a — there was never a written
21 contract of any sort.

22 And of course, even more interesting or perplexing
23 than that to the Court is the fact that the individual that
24 sued, Mr. Law didn't represent them, at least according to
25 him. And the alleged people he allegedly represented, they

1 say they never hired him. And he says that he was never
2 hired to represent them on anything. Or, well, with —
3 with respect to this medical malpractice claim.

4 But as I look at the — the elements that are
5 necessary to prove the case, I'm going to take #2 first
6 which is the aggravated perjury. One thing that's
7 referenced in Count #2 is:

8 [Reading] "Defendant Wenda Jackson filed a
9 sworn and verified motion in Case #C40814
10 wherein he stated that he represented Johnny
11 Fields and Elizabeth Fields in a civil action
12 for legal practice damages against William A.
13 Law, when the Defendant knew that he did not, in
14 fact, represent Johnny Fields and Elizabeth
15 Fields in any capacity."

16 But at least as far as I can see on any of the
17 exhibits or anything else, there was never a sworn and
18 verified motion. It was talked about, but there's never
19 been a copy of that filed. So I don't have that exhibit in
20 front of me.

21 So with respect to the aggravated perjury, the Court's
22 of the opinion that at best the State has proven that by
23 clear and convincing evidence, which is legally insuffi-
24 cient to establish aggravated perjury without the — the
25 verified motion, the sworn-to and verified motion. It was

1 talked about but it was — it's never been introduced.
2 It's never been presented. It's never been made an
3 exhibit.

4 So it's the Court's opinion that the State has
5 established that by clear and convincing evidence and not
6 beyond a reasonable doubt.

7 Next I come to the extortion count, which is Count #1.
8 And it's a — it is a difficult case — a difficult count
9 to analyze from the standpoint that not only did Mr.
10 Jackson not obtain a written contract which he was
11 ethically required to do if he was going to represent these
12 individuals in a medical malpractice — I mean, a legal
13 malpractice claim. He was required to have a written
14 contract for a contingency fee, which he acknowledges he
15 didn't. So that, in and of itself, is an ethics violation.

16 MR. JACKSON: Your Honor, may I say something?

17 THE COURT: No.

18 And then, when he didn't follow through with that, he
19 — he gets this HIPAA, which he later says he didn't have
20 on two separate occasions; he does nothing with it. He
21 doesn't get any medical records to analyze, so he doesn't
22 know whether the claim against Mr. Law might be valid or
23 not because he never does anything to see if there ever was
24 any medical malpractice.

25 MR. JACKSON: There wasn't time.

1 THE COURT: Just didn't do anything.
2 Well, Mr. Jackson, you just said, "There wasn't time."
3 Is that correct?
4 MR. JACKSON: I — I was told that I didn't represent
5 them when those affidavit got filed.
6 THE COURT: Right. But you hadn't done anything with
7 that HIPAA release.
8 MR. JACKSON: That's right.
9 THE COURT: You didn't do anything with it. You —
10 you couldn't find it in your file.
11 MR. JACKSON: But I did find it.
12 THE COURT: You — you did. Your wife found it or ex-
13 wife found it a — a year later when you were arrested, and
14 you hadn't taken any action with respect to it. You hadn't
15 done anything to figure out whether there was a valid claim
16 or not.
17 MR. JACKSON: They'd already represented, Your Honor,
18 that I didn't represent them.
19 THE COURT: So in that respect...
20 And also Mr. Jackson sends this demand letter that
21 says,
22 [Reading] "Dear Andy:
23 "I have been employed by Johnny and
24 Elizabeth Fields in their claims for damages
25 against you. The statute of limitations on

1 their medical malpractice case has expired. It
2 expired because you told them there was nothing
3 that could be done about misplacement of Mrs.
4 Fields' tracheotomy incision.

5 "I must hear from you no later than
6 tomorrow on either whether you have malpractice
7 insurance, and if you do not, your willingness
8 to negotiate a settlement. I know you have
9 assets because I personally know of a \$100,000
10 fee you collected last year. Govern yourself
11 accordingly. Wendal Jackson."

12 And in court today, when asked about whether or not —
13 what the dates were — what the dates were, and Mr. Jackson
14 didn't know. Didn't know if the...

15 He didn't even have the medical records to even know
16 when the procedure occurred. You didn't get the medical
17 records to see if — when the procedure occurred.

18 MR. JACKSON: I was already told I didn't represent
19 them, Judge.

20 THE COURT: Well, did you dismiss the suit?

21 MR. JACKSON: There's that motion still pending about
22 when we discovered the HIPAA release.

23 THE COURT: Well, after weighing all the evidence,
24 considering the credibility of the witnesses, I'm not sure
25 where this HIPAA release came from because Mrs. Fields

1 indicates that's her signature. But yet she doesn't
2 remember ever signing it, ever seeing that document. But
3 interestingly enough the Court also observed that she
4 didn't remember initially the affidavit that she had
5 provided to law enforcement stating that Mr. Law never
6 represented her and that Mr. Jackson never represented her.
7 It was only after she was provided the document that she —
8 that that refreshed her recollection and she remembered it.

9 And then secondly important and the Court noted was
10 the fact that Mrs. Fields' daughter, she indicated that
11 that affidavit was not her mother's signature, when her
12 mother says it is. There's obviously some problems with
13 that in — in the Court's mind. Because the one document
14 that her — her mother, after her recollection's refreshed,
15 looks at and says, "That's my signature"; her daughter says
16 that's not her mother's signature. So I — I'm going to
17 have to take Mrs. Fields' word that it's her signature over
18 her daughter's. But that's what she testified.

19 So anyway, weighing out the conflicting testimony and
20 the letter that Mr. Jackson sent off to Mr. Law, which to
21 me is hostile in its very nature. 'I have to know from you
22 tomorrow, no later than tomorrow.' Well, you don't even
23 know if he's going to get the letter by tomorrow.

24 MR. JACKSON: It was faxed, Your Honor.

25 THE COURT: I still haven't seen your fax you sent on

1 Thursday. You — you...

2 That's what I'm saying. It's not reasonable to expect
3 to hear from somebody on something tomorrow.

4 And you don't even have a written contract. And then,
5 based on this, you then file — you then filed a lawsuit
6 and — and don't conduct any investigation.

7 MR. JACKSON: We're entitled to take my client's word.
8 Law says that clearly.

9 THE COURT: Well — well, if you had a client, maybe.

10 MR. JACKSON: Yes, sir. That's right.

11 THE COURT: It appears that at least they say you
12 didn't.

13 MR. JACKSON: That HIPAA release is pretty convincing,
14 though.

15 THE COURT: Well, possibly; possibly not. Convincing
16 that maybe...

17 Of course, they don't remember signing it. But
18 assuming that I find that they did, regardless of whether
19 it happened at McDonald's, you still didn't follow up with
20 getting any type of written contract with them before you
21 filed any lawsuit.

22 MR. JACKSON: There wasn't time, Judge. I would have
23 done it. Should have done it sooner, but I didn't.

24 THE COURT: Uh-huh.¹

¹Generally affirmative response.

1 Well, based on the proof that's before the Court,
2 weighing the credibility of all the witnesses and the
3 evidence, as I said, I'm dismissing Count #2 based on the
4 fact that I don't believe the State met their burden.

5 Mr. Jackson, I'm going to find you guilty of attempted
6 extortion in Count #1. It's a Class E felony. It's a
7 Class D felony as it's charged. I'm finding you guilty of
8 a Class E felony for the purposes of the record if — if it
9 goes up on appeal.

10 The Court does find that Mrs. Fields acknowledged the
11 signature on the HIPAA release was her signature, and then
12 she also acknowledged that the affidavit was her signature.
13 But she required an opportunity to review that document
14 before she was able to.

15 So based on the fact that I've found you guilty of a
16 felony, Mr. Jackson, I need a — we'll have to have a
17 presentence report before I can sentence you to anything.
18 And also as part of that presentence report, and you
19 probably know this as well, but I — assuming you have no
20 prior criminal history—I don't know whether you do or
21 not—you certainly could send in to the Tennessee Bureau
22 of Investigation to determine whether or not you have a —
23 if they will certify that you were technically eligible for
24 a diversion. I don't know whether you are or whether
25 you're not. I don't know about your past history.

1 But anyway, since you're representing yourself, I felt
2 that I should mention that to you.

3 I'm going to set a sentencing hearing date.

4 Who does the presentence reports up here?

5 COURT REPORTER: Our probation department.

6 THE COURT: And how — what — I was going to say, how
7 do I need to get them in contact with Mr. Jackson? Is
8 there somebody around here today that can go ahead and
9 start with that or...

10 COURT REPORTER: I think there is. Kelci Wright.
11 Is she next door?

12 CLERK: Yeah, she's right next door.

13 THE COURT: All right.

14 MR. JACKSON: There will be a motion on this — on
15 that, Your Honor.

16 THE COURT: A motion in respect to what?

17 MR. JACKSON: Rehearing.

18 THE COURT: Well, I — well, that — I...

19 GENERAL MARSH: Object, Your Honor. There's no
20 functional equivalent of a motion to rehear on a criminal
21 case.

22 THE COURT: Right.

23 MR. JACKSON: Oh, yes, there is.

24 THE COURT: Well...

25 COURT REPORTER: Judge, do you want me to go get her?

1 THE COURT: Yes, please. You need...

2 Before you can file anything like that, Mr. Jackson,
3 what we — we need to get the sentence done first.

4 MR. JACKSON: Right.

5 THE COURT: And then you — then there may be some
6 motion you want to file. But until I sentence you, I don't
7 think that there's any...

8 Procedurally, I think you need a sentence first.

9 MR. JACKSON: That's right.

10 THE COURT: Let's see here. I'm going to have you go
11 ahead and start an initial meeting with the Board of
12 Probation and Parole for the presentence report. They're
13 here. And they may not meet with you today; they may just
14 schedule a time. I don't know how they'll do that up here
15 but...

16 MR. JACKSON: Probably my telephone number should be
17 in the file so they can reach me. I'm not listed in the
18 phonebook.

19 THE COURT: Right.

20 I'm waiting on them to come in. I'll need to know how
21 long it'll take them to prepare that. I don't know.

22 Do they usually do that — do they usually get — need
23 them two or three weeks, a month, how long?

24 COURT REPORTER: She'll be here in just a minute,
25 Judge.

1 CLERK: What is it? Forty-five (45) days or 20 days
2 that they usually need?

3 COURT REPORTER: I'm sorry?

4 CLERK: That they need to prepare the presentence
5 report.

6 COURT REPORTER: Forty-five (45).

7 CLERK: Forty-five (45) days.

8 THE COURT: Okay.

9 COURT REPORTER: Can I help you with a date, Judge?

10 MR. JACKSON: I think it's usually about a month, Your
11 Honor.

12 COURT REPORTER: Unless he waives.

13 THE COURT: All right. I think what I'll do is I'll
14 set the — assuming that everybody can be here, September
15 the 16th for sentencing.

16 MR. JACKSON: Very well.

17 THE COURT: Does that work with you, Mr. Jackson?

18 MR. JACKSON: Yes, sir. Yes, sir, it does.

19 THE COURT: General, check your calendar and see if
20 that works with you.

21 MR. JACKSON: Why don't we do that in Rogersville for
22 everybody's convenience? Say at 1:00 in Rogersville; Mr.
23 Marsh's, mine.

24 THE COURT: I don't necessarily have a problem with
25 that. But where we come into the issue is, is with the

1 court reporter.

2 GENERAL MARSH: That's a Friday, Your Honor?
3 September 16th?

4 THE COURT: It is.

5 GENERAL MARSH: That's good for me.

6 MR. JACKSON: Good for me.

7 THE COURT: I — I'd rather just do it up here where
8 we can have the same equipment to record it. Would...

9 I don't have anything else scheduled on that day.
10 It's far enough out for me.

11 Would you all like to do it at 10:00? Would that give
12 you better drive time? Or would you just want to do it...

13 MR. JACKSON: Yes, that would be convenient for me.
14 I live way out in Kingsport.

15 GENERAL MARSH: Yes, Your Honor.

16 THE COURT: All right. We'll — we'll do that at
17 10:00 if I can get a courtroom.

18 (Probation Officer Wright enters the courtroom.)

19 COURT REPORTER: Ms. Wright is here.

20 THE COURT: All right. Could...

21 MR. JACKSON: We've got three courtrooms in this
22 building, Your Honor. There's a little one upstairs that
23 they hold juvenile court in.

24 THE COURT: Okay. All right.

25 CLERK: You want me — want me to make sure...

1 THE COURT: See if it's available.

2 Can you have a presentence report completed on Mr.
3 Jackson's case by September the 16th?

4 PROBATION OFFICER WRIGHT: We can have a specific data
5 report if there's not been a plea agreement. We don't do
6 a full one, a presentence report on cases that they've not
7 entered into a plea.

8 THE COURT: Well, this is a guilty verdict by trial.
9 So he's just been found guilty, so I'll need the full
10 presentence report.

11 MR. JACKSON: Did you say the 16th or 15th?

12 THE COURT: 16th at 10:00. But I'm checking on
13 availability of the courtroom. I don't — it...

14 Upstairs is fine with me. I just need somewhere. Any
15 courtroom's fine with me, I just need to be somewhere.

16 MR. JACKSON: My — ma'am, my phone number is...

17 PROBATION OFFICER WRIGHT: I'll meet with you in just
18 a minute.

19 MR. JACKSON: Oh, okay.

20 THE COURT: Yeah, there may be some — any one of the
21 three will be fine. And I probably won't need it for but
22 45 minutes or something. At ten.

23 Does that work?

24 CLERK: Waiting on a response.

25 THE COURT: Oh, you're waiting on a response?

(The Court confers with the clerk.)

GENERAL MARSH: Are they still checking on the courtroom availability?

THE COURT: That's what they're doing. There is a third courtroom here that I think should be suitable for what we need.

MR. JACKSON: They have juvenile court and child support in that courtroom, and I don't know on what days.

THE COURT: We'll find out. I hope that's a — I mean, that's a — I think, a pretty good day. But we'll see.

COURT OFFICER: Child support court's on Mondays, Tuesdays, and Thursdays upstairs. Wednesday's in Kingsport. I don't think they have anything on Friday.

(The Court confers with the clerk.)

THE COURT: Of course, Mr. Jackson, I'm leaving you on your same bond until...

MR. JACKSON: I'm local and I've been here every time.

THE COURT: You've been here. I don't foresee any issues with that. As soon as they let us know about the availability of the courtroom, I'd just rather get that cleared up before we — before we leave.

PROBATION OFFICER WRIGHT: Would you like me to go down there and get his information?

THE COURT: No, you're fine. You're fine.

1 MR. JACKSON: Should I come with you, ma'am?

2 PROBATION OFFICER WRIGHT: No. I'm going to talk to
3 you right here.

4 MR. JACKSON: Okay.

5 GENERAL MARSH: Your Honor, I'm assuming we've got a
6 courtroom.

7 CLERK: That's all right.

8 THE COURT: All right. That'll be it.

9 CLERK: He said it'll be one of the courtrooms but...

10 THE COURT: That'll be fine. All right.
11 Anything else to come before the Court on this case?

12 COURT REPORTER: Judge, I need the exhibits.

13 GENERAL MARSH: No, Your Honor. Not from the State.

14 THE COURT: All right. Court's adjourned.
15
16

17 ~ END OF REQUESTED TRANSCRIPT ~
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CERTIFICATE

I, the undersigned, MELANIE L. SCHALLOCK, Certified Verbatim Reporter-Master and Official Court Reporter for the Second Judicial District, State of Tennessee, do hereby certify that the foregoing is a true and accurate transcript of the evidence (or portion thereof, as the case applies) of the proceedings had and evidence introduced in the hearing of the captioned cause, relative to appeal, in the Criminal Court for Sullivan County at Blountville, Tennessee, on the 5th day of July, 2016.

No off-the-record conversations inadvertently recorded were transcribed herein.

I do further certify that I am neither of kin, counsel, nor interest to any party hereof. This the 26th day of July, 2016.

Melanie Schallock

MELANIE L. SCHALLOCK, CVRM
Official Court Reporter
Second Judicial District
State of Tennessee