



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211
TELEPHONE: (803) 734-1080
FAX: (803) 734-1499

NOTICE

In the Matter of Richard R. Kelly

Petitioner has filed a petition for reinstatement and that petition has been referred to the Committee on Character and Fitness pursuant to the provisions of Rule 419 of the South Carolina Appellate Court Rules.

The Committee on Character and Fitness has now scheduled a hearing in this regard on October 17, 2019, beginning at 2:30 pm, in the Courtroom of the Supreme Court Building, 1231 Gervais Street, Columbia, South Carolina.¹

Any individual may appear before the Committee in support of, or in opposition to, the petition.

Kirby D. Shealy, III, Chairman
Committee on Character and Fitness
P. O. Box 11330
Columbia, South Carolina 29211

Columbia, South Carolina

September 18, 2019

¹ The date and time for the hearing are subject to change. Please contact the Office of Bar Admissions Office at the Supreme Court to confirm the scheduled time and date.



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NOTICE

In the Matter of Charles E. Houston, Jr.

Petitioner has filed a petition for reinstatement and that petition has been referred to the Committee on Character and Fitness pursuant to the provisions of Rule 33 of the Rules for Lawyer Disciplinary Enforcement contained in Rule 413 of the South Carolina Appellate Court Rules.

The Committee on Character and Fitness has now scheduled a hearing in this regard on October 17, 2019, beginning at 3:00 pm, in the Courtroom of the Supreme Court Building, 1231 Gervais Street, Columbia, South Carolina.¹

Any individual may appear before the Committee in support of, or in opposition to, the petition.

Kirby D. Shealy, III, Chairman
Committee on Character and Fitness
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NOTICE

In the Matter of Chad Brian Hatley

Petitioner has filed a petition for reinstatement and that petition has been referred to the Committee on Character and Fitness pursuant to the provisions of Rule 419 and Rule 33 of the Rules for Lawyer Disciplinary Enforcement contained in Rule 413 of the South Carolina Appellate Court Rules.

The Committee on Character and Fitness has now scheduled a hearing in this regard on October 17, 2019, beginning at 4:00 pm, in the Courtroom of the Supreme Court Building, 1231 Gervais Street, Columbia, South Carolina.¹

Any individual may appear before the Committee in support of, or in opposition to, the petition.

Kirby D. Shealy, III, Chairman
Committee on Character and Fitness
P. O. Box 11330
Columbia, South Carolina 29211

Columbia, South Carolina

September 18, 2019

¹ The date and time for the hearing are subject to change. Please contact the Office of Bar Admissions Office at the Supreme Court to confirm the scheduled time and date.

The Supreme Court of South Carolina

In the Matter of Theresa Cortese-Fusaro

Appellate Case No. 2019-001523

ORDER

The records in the office of the Clerk of the Supreme Court show that on November 13, 1995, Petitioner was admitted and enrolled as a member of the Bar of this State.

Petitioner has now submitted a resignation from the South Carolina Bar pursuant to Rule 409 of the South Carolina Appellate Court Rules. The resignation is accepted.

Within twenty (20) days from the date of this order, Petitioner shall surrender the certification of admission to the Clerk of this Court. If Petitioner cannot locate this certificate, Petitioner shall provide the Clerk with an affidavit indicating this fact and indicating that the certificate will be immediately surrendered if it is subsequently located.

FOR THE COURT

BY s/ Daniel E. Shearouse
CLERK

Columbia, South Carolina

September 20, 2019



OPINIONS
OF
THE SUPREME COURT
AND
COURT OF APPEALS
OF
SOUTH CAROLINA

ADVANCE SHEET NO. 38
September 25, 2019
Daniel E. Shearouse, Clerk
Columbia, South Carolina
www.sccourts.org

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THE SUPREME COURT OF SOUTH CAROLINA

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2018-MO-039 - Betty and Lisa Fisher v. Bessie Huckabee	Pending
2018-MO-041 - Betty Fisher v. Bessie Huckabee AND Lisa Fisher v. Bessie Huckabee	Pending
Order - In the Matter of Cynthia E. Collie	Pending
2018-001253 - Steven Barnes v. SCDC	Pending
2019-000304 - JP Morgan Chase Bank v. Robert W. Wazney	Granted until 11/8/19

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27859 - In the Matter of Jennifer Elizabeth Meehan	Denied 9/19/19
27900 - Anthony Marquese Martin v. State	Denied 9/19/19

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27904 - Crystal Wickersham v. Ford Motor Co.	Pending
27905 - Daufuskie Island v. SC Office of Regulatory Staff	Pending
27908 - A. Marion Stone, III v. Susan B. Thompson	Pending
27910 - State v. Shane Adam Burdette	Pending
27911 - Derrick Fishburne v. State	Pending
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5633-William Loflin v. BMP Development, LP	Denied 09/19/19
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5643-Ashley Reeves v. SCMIRF	Denied 09/19/19
5661-Palmetto Construction Group, LLC v. Restoration Specialists (2)	Pending
5669-Jeffrey Kennedy v. Richland School Dt. Two	Pending
5671-S.C. Lottery Commission v. George Glassmeyer	Pending
5673-Cricket Store 17 v. City of Columbia	Pending
5676-H. Marshall Hoyler v. State of South Carolina	Pending
5677-State v. Joseph Bowers	Denied 09/20/19
5680-Steven Newbern v. Ford Motor Company	Pending
5681-Richard Ralph v. Paul D. McLaughlin	Pending

5683-State v. Ontario Stefon Patrick Makins	Pending
2019-UP-099-John Doe v. Board of Zoning Appeals	Pending
2019-UP-133-State v. George Holmes	Pending
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2019-UP-260-Edward Pugh v. CB&I AREVA MOX	Denied 09/19/19
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2019-UP-272-State v. John M. Ghent, Jr.	Denied 09/19/19
2019-UP-283-Kathlenn Kelly v. James Rachels	Pending
2019-UP-284-Bank of New York Mellon v. Cathy Lanier	Pending
2019-UP-293-Thayer Arredondo v. SNH SE Ashley River Tenant	Denied 09/20/19
2019-UP-295-State v. Anthony M. Enriquez	Pending
2019-UP-297-Trey Williams v. State	Pending
2019-UP-305-Billy Henderson v. G&G Logging	Pending
2019-UP-306-Alicia Rudick v. Brian Rudick	Pending
2019-UP-308-Edward Kelly v. Allen McCombs	Pending
2019-UP-311-Alfred Jenkins v. Ferrara Buist Co.	Pending

PETITIONS-SOUTH CAROLINA SUPREME COURT

5606-George Clark v. Patricia Clark	Pending
5617-Maria Allwin v. Russ Cooper Associates, Inc.	Denied 09/18/19

5618-Jean Derrick v. Lisa Moore	Granted 09/18/19
5625-Angie Keene v. CNA Holdings	Pending
5630-State v. John Kenneth Massey, Jr.	Granted in part 09/18/19
5637-Lee Moore v. Debra Moore	Pending
5639-Hugh Dereede v. Courtney Feeley-Karp	Pending
5641-Robert Palmer v. State et al.	Pending
5642-State v. Dean Alton Holcomb	Pending
5644-Hilda Stott v. White Oak Manor, Inc.	Pending
5646-Grays Hill Baptist Church v. Beaufort County	Pending
5650-State v. Felix Kotowski	Pending
5660-Otis Nero v. SCDOT	Pending
5666-Ex parte: The Travelers Home and Marine Ins. Co,	Pending
2019-UP-067-Lorrie Dibernardo v. Carolina Cardiology	Denied 09/18/19
2019-UP-100-State v. Rhajon Sanders	Pending
2019-UP-110-Kenji Kilgore v. Estate of Samuel Joe Dixon	Pending
2019-UP-128-Wilson Garner, Jr. v. Nell Gaines	Pending
2019-UP-146-State v. Justin Antonio Butler	Pending
2019-UP-172-Robert Gillmann v. Beth Gillman	Pending
2019-UP-178-Arthur Eleazer v. Leslie Hughey	Pending
2019-UP-179-Paula Rose v. Charles Rose, III	Pending
2019-UP-209-State v. Terrance Stewart	Pending

2019-UP-215-Valerie Lawson v. Erin Smith Pending

2019-UP-219-Adele Pope v. Alan Wilson (James Brown Legacy Trust) Pending

**THE STATE OF SOUTH CAROLINA
In The Supreme Court**

In the Matter of Anthony C. Odom, Respondent.

Appellate Case No. 2019-001093

Opinion No. 27918

Submitted, August 15, 2019 – Filed September 25, 2019

DISBARRED

John S. Nichols, Disciplinary Counsel, and Joseph P.
Turner, Senior Assistant Disciplinary Counsel, of
Columbia, for the Office of Disciplinary Counsel.

Harvey M. Watson, III, of Ballard & Watson, Attorneys
at Law, of West Columbia, for Respondent.

PER CURIAM: In this attorney disciplinary matter, Respondent and the Office of Disciplinary Counsel (ODC) have entered into an Agreement for Discipline by Consent (the Agreement) pursuant to Rule 21, RLDE, Rule 413, SCACR. In the Agreement, Respondent admits misconduct and consents to disbarment. Respondent requests his disbarment be imposed retroactively to May 17, 2006, the date of his interim suspension. *In re Odom*, S.C. Sup. Ct. Order dated May 17, 2006. We accept the Agreement and disbar Respondent from the practice of law in this state, retroactive to the date of his interim suspension. The facts, as set forth in the Agreement, are as follows.

Facts

Respondent was convicted of one count of criminal solicitation of a minor and received a sentence of seven years' imprisonment, suspended to five years'

probation. Respondent has completed his period of probation and is listed on the state-wide sex offender registry.

Law

Respondent admits that by his conduct he violated Rule 8.4, RPC, Rule 407, SCACR (professional misconduct). Respondent further admits his conduct constitutes grounds for discipline under Rule 7(a)(1) and (4), RLDE, Rule 413, SCACR (violating the Rules of Professional Conduct and being convicted of a crime of moral turpitude or a serious crime).

Conclusion

We accept the Agreement and disbar Respondent from the practice of law in this state, retroactive to May 17, 2006, the date of his interim suspension. Within fifteen (15) days of the date of this opinion, Respondent shall file an affidavit with the Clerk of Court showing that he has complied with Rule 30, RLDE, Rule 413, SCACR, and shall also surrender his Certificate of Admission to the Practice of Law to the Clerk of Court. Additionally, prior to seeking reinstatement, Respondent must demonstrate his compliance with Rule 33, RLDE, Rule 413, SCACR.

DISBARRED.

BEATTY, C.J., KITTREDGE, HEARN, FEW and JAMES, JJ., concur.

**THE STATE OF SOUTH CAROLINA
In The Supreme Court**

Ex Parte Ninth Judicial Circuit Solicitor Scarlett A.
Wilson, Petitioner.

In re Bradley Rowland Marshall, Respondent.

Appellate Case No. 2017-001951

ORIGINAL JURISDICTION

Opinion No. 27919
Submitted August 15, 2019 – Filed September 25, 2019

JUDGMENT DECLARED

Benjamin Chad Simpson, of Charleston, for Petitioner.

Bradley Rowland Marshall, of Mt. Pleasant, *pro se*.

PER CURIAM: We agreed to hear this declaratory judgment action in our original jurisdiction to determine whether Respondent has engaged in the unauthorized practice of law (UPL). The matter was referred to a Special Referee to take evidence and issue a report containing proposed findings of fact and recommendations to the Court. Following a hearing, the Special Referee issued a report concluding Respondent engaged in UPL. Respondent has filed exceptions to the Report. We hold Respondent has engaged in UPL and enjoin him from any further UPL.

UNDERLYING FACTS

Respondent was disbarred by the Washington Supreme Court on October 1, 2009,¹ by the Ninth Circuit Court of Appeals on May 25, 2010,² and by the United States Supreme Court on December 13, 2010.³ He is no longer licensed to practice law in any state.

Respondent is currently the sole proprietor of Chartmans, Inc. According to the company's website, Chartmans "serves as a legal consultant to federal workers, contractors, foreign states, statesmen and companies doing business abroad. In today's world, legal representation is essential. Whether it is in U.S. administrative hearings, before international tribunals, foreign courts, or in mediations and arbitrations abroad, CHARTMANS ensures its clients continue to grow through compassionate problem-solving, pragmatic negotiations and unwavering litigation." The website further states, "If you are a federal contractor or employed by a federal agency, department or entity in the United States or overseas and are dealing with an employment dispute, you need adequate legal representation. Any problem you may run into in dealing with employment discrimination, work-place disputes or business problems in the States or overseas, Chartmans is prepared to provide comprehensive and compassionate representation." Respondent's biographical information on the website states, "Mr. Marshall is a conciliator, broker and litigator" and indicates he has "considerable experience as an American lawyer, cleric and foreign legal and business consultant." Chartmans' letterhead indicates the company specializes in "Longshore and Federal Worker Claims."

Pursuant to the regulation in effect at the time of Respondent's actions, 29 C.F.R. §18.34(g)(2) (2011),⁴ any citizen who is not an attorney was permitted to appear in

¹ *In re Marshall*, 217 P.3d 291 (Wash. 2009), *cert. denied*, 561 U.S. 1008 (2010).

² *In re Marshall*, Case No. 07–80092 (9th Cir. 2010).

³ *In re Marshall*, 562 U.S. 1105 (2010).

⁴ The current regulation defining attorney representatives and non-attorney representatives is 29 C.F.R. §18.22 (West 2019).

a representative capacity in an adjudicative proceeding before the Department of Labor's Office of Administrative Law Judges (OALJ). Claims under the Longshoremen's and Harbor Workers' Compensation Act (Longshoremen's Act) are decided by the OALJ. After his disbarment, Respondent represented numerous clients in Longshoremen's Act claims before the OALJ.

On November 2, 2011, United States Department of Labor Administrative Law Judge Jennifer Gee disqualified Respondent from appearing before the OALJ in a case arising under the Longshoremen's Act because he was an attorney as defined by 29 C.F.R. § 18.34(g)(1) and, therefore, could not appear as a non-attorney as defined by 29 C.F.R. § 18.34(g)(2). Subsequently, United States Department of Labor Administrative Law Judge Stephen Purcell issued a Notice of Judicial Inquiry and Order to Show Cause why the OALJ should not afford reciprocal effect to Washington's disbarment of Respondent. On December 8, 2011, Judge Purcell issued an order denying Respondent the authority to appear in a representative capacity before the OALJ. The United States District Court dismissed Respondent's action challenging the orders of Judge Gee and Judge Purcell under the Administrative Procedures Act and denied his motion for reconsideration. *Marshall v. Purcell*, No. 2:12-cv-00084-RMG (D.S.C. Jan. 2, 2013). The Fourth Circuit Court of Appeals affirmed. *Marshall v. Purcell*, 521 F. App'x 200 (4th Cir. 2013).

LAW

The United States Supreme Court has held a state may not enforce attorney licensing requirements that give the state's attorney licensing authority "a virtual power of review over the federal determination that a person or agency is qualified and entitled to perform certain functions, or which impose upon the performance of activity sanctioned by federal license additional conditions not contemplated by Congress." *Sperry v. State of Fla. ex rel. Florida Bar*, 373 U.S. 379, 385 (1963). Pursuant to *Sperry*, when a state licensing law excludes a lawyer from practice that federal rules expressly allow, the two rules conflict, and the state law is preempted by the federal law. *Id.* However, if the authorization to practice before federal agencies and courts is withdrawn, the practice becomes subject to this Court's authority to regulate the practice of law in South Carolina. See S.C. Const. art. V, § 4 ("The Supreme Court shall have jurisdiction over the admission to the practice of law and the discipline of persons admitted."); S.C. Code Ann. § 40-5-10 (2011) (recognizing the inherent power of the South Carolina Supreme Court to regulate the practice of law); *In re Lite Ray Realty Corp.*, 257 B.R. 150, 153 (Bankr.

S.D.N.Y. 2001) (holding the ability to practice in federal court depends on the extent of the "federal exception" to the unauthorized practice of law, which insulates a lawyer, acting within the scope of an authorization to practice before a federal court, from the charge of violating state restrictions on the unauthorized practice of law); *People v. Shell*, 148 P.3d 162, 175 (Colo. 2006) (holding in the absence of preemption by the federal courts, the state court has the power to sanction an individual for the unauthorized practice of law in a federal action); *In re Amalgamated Dev. Co., Inc.*, 375 A.2d 494, 497 (D.C. 1977) (holding if the federal government has not granted a license to practice in an area, a state is free to enforce its own licensing regulations because the state is not interfering with any federal purpose); *In re Lyon*, 16 N.E.2d 74, 77 (Mass. 1938) ("[W]e see no reason why our policy or statute should give way in favor of persons who seek to escape State regulation of the practice of law on the ground that their practice is within the field of Federal jurisdiction, when they are not authorized to [practice] in that jurisdiction."); *Cleveland Bar Ass'n v. Boyd*, 859 N.E.2d 930, 932 (Ohio 2006) (holding except to the limited extent necessary to protect peculiarly federal objectives, the state may enjoin the unauthorized practice of law before federal courts in Ohio); *In re Unauthorized Practice of Law Rules Proposed by S.C. Bar*, 309 S.C. 304, 305, 422 S.E.2d 123, 124 (1992) (noting the South Carolina Supreme Court has the duty to regulate the practice of law in South Carolina).

Because whether Respondent's representation of Longshoremen's Act clients before the OALJ prior to the orders prohibiting him from appearing before the OALJ constituted UPL is a question for federal determination, we express no opinion as to the propriety of that representation. However, we hold any representation of clients by Respondent in actions before the OALJ after he was prohibited from appearing before the OALJ constitutes UPL and enjoin Respondent from any further representation of clients before the OALJ.

Respondent's provision of advice to clients, negotiation of settlements, and general case management of claims under the South Carolina Workers' Compensation Act without the supervision of a licensed attorney; participation in the drafting of settlement agreements and other agreements affecting title to real property; negotiation of legal rights and responsibilities on behalf of other individuals; and provision of advice to individuals on the desirability of settlement offers or contract terms under South Carolina law also constitutes UPL and may be regulated by this Court. *See Rogers Townsend & Thomas, PC v. Peck*, 419 S.C. 240, 244, 797 S.E.2d 396, 398 (2017) ("Generally, the practice of law includes 'the

preparation of pleadings, and other papers incident to actions and special proceedings, and the management of such actions and proceedings on behalf of clients before judges and courts." (quoting *State v. Despain*, 319 S.C. 317, 319, 460 S.E.2d 576, 577 (1995)); *State v. Buyers Serv. Co.*, 292 S.C. 426, 430, 357 S.E.2d 15, 17 (1987) ("The practice of law is not confined to litigation, but extends to activities in other fields which entail specialized legal knowledge and ability."). Accordingly, we enjoin Respondent from any further actions of this nature.

JUDGMENT DECLARED.

BEATTY, C.J., KITTREDGE, HEARN, FEW and JAMES, JJ., concur.

The Supreme Court of South Carolina

In the Matter of Thomas A. Givens, Respondent

Appellate Case Nos. 2019-001562 & 2019-001564

ORDER

The Office of Disciplinary Counsel asks this Court to place Respondent on interim suspension pursuant to Rule 17(a), RLDE, Rule 413, SCACR. The petition also seeks appointment of the Receiver pursuant to Rule 31, RLDE, Rule 413, SCACR. Respondent has filed a return in which he consents to the issuance of an order of interim suspension and appointment of the Receiver in this matter.

IT IS ORDERED that Respondent's license to practice law in this state is suspended until further order of this Court. However, pursuant to Rule 17(d), RLDE, Rule 413, SCACR, Respondent may apply to this Court for reconsideration of the order.

IT IS FURTHER ORDERED that Peyre Thomas Lumpkin, Esquire, is hereby appointed to assume responsibility for Respondent's client files, trust account(s), escrow account(s), operating account(s), and any other law office accounts Respondent may maintain. Mr. Lumpkin shall take action as required by Rule 31, RLDE, Rule 413, SCACR, to protect the interests of Respondent's clients. Mr. Lumpkin may make disbursements from Respondent's trust account(s), escrow account(s), operating account(s), and any other law office accounts Respondent may maintain that are necessary to effectuate this appointment.

This Order, when served on any bank or other financial institution maintaining trust, escrow and/or operating account(s) of Respondent, shall serve as an injunction to prevent Respondent from making withdrawals from the account(s) and shall further serve as notice to the bank or other financial institution that Peyre Thomas Lumpkin, Esquire, has been duly appointed by this Court.

Finally, this Order, when served on any office of the United States Postal Service, shall serve as notice that Peyre Thomas Lumpkin, Esquire, has been duly

appointed by this Court and has the authority to receive Respondent's mail and the authority to direct that Respondent's mail be delivered to Mr. Lumpkin's office.

Mr. Lumpkin's appointment shall be for a period of no longer than nine months unless an extension of the period of appointment is requested.

s/ Donald W. Beatty C.J.
FOR THE COURT

Columbia, South Carolina

September 19, 2019