

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY, MARYLAND

STATE OF MARYLAND

*

V.

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CASE NO: 03-K-18-00323

SHAUN DALLAS DANCE

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SENTENCING MEMORANDUM

The State of Maryland, by Emmet C. Davitt, State Prosecutor, submits the following response and recommendation regarding the sentencing of the Defendant. The Defendant in this case, Dr. Shaun Dallas Dance, pleaded guilty to four counts of perjury. Each offense is punishable by a maximum penalty of 10 years' incarceration.

DISCUSSION AND RESPONSE TO DEFENDANT'S SENTENCING MEMORANDUM

The extensive statement of facts presented in support of the Defendant's guilty plea sets forth a continuous course of conduct of blatant deceit and self-interest, not "foolish errors" or "a lapse in judgement" (see Defendant's Sentencing Memorandum at 3), that extended from the time that Dance was selected as the new Superintendent of the Baltimore County Public Schools ("BCPS") in April of 2012 through his resignation in May of 2017.

From the onset, continuous communication between the Defendant and the Supes Academy in Chicago ("SUPES") outline repeated requests for and offers of lucrative speaking and training fees while the parties were simultaneously negotiating an \$875,000.00 training services contract between SUPES and BCPS. Less than six months into the position, in December of 2012, the County, unaware of the Defendant's financial

relationship with SUPES, signed off on an \$875,000.00 contract with SUPES. Between September and December of 2012, while directly involved in negotiating the terms of that contract, the Defendant also contracted to work as a master teacher for SUPES at the Rochester Schools for \$15,000.00 and at the Capital Area Public Charter Schools in Washington, D.C. for \$20,000.00. In late December, the Defendant deposited his first checks from SUPES/Synesi totaling \$14,000.00. On his Financial Disclosure Form for 2012, he did not disclose that he had earned any income from Deliberate Excellence, LLC (“Deliberate Excellence”), SUPES or Synesi Associates, LLC (“Synesi”). Moreover, the Defendant did not disclose this information to anyone.

During 2013, after SUPES was awarded the contract and performing its work with BCPS, the Defendant continued to work extensively for SUPES on a number of projects for which he received payment of approximately \$72,000. In late November of 2013, allegations that the Defendant was working for SUPES came to the attention of the BCPS Board of Education. When questioned by the Board about this conflict, the Defendant responded that SUPES had contacted him about mentoring aspiring leaders in the Chicago Public Schools and that he had only worked for SUPES for four or five weekends. He further indicated that he had not been paid by SUPES and that any payment that he received was to go to the Baltimore County Education Foundation. The Defendant terminated his work for SUPES in December of 2013 and agreed to obtain prior approval of the Board before engaging in any other outside activities. (see Statement of Facts at 14)

The Ethics Panel of BCPS then commenced an investigation concerning the Defendant’s relationship with SUPES and asked him to provide an explanation. In

January of 2014, the Defendant responded and falsely denied any involvement in the selection of SUPES as a contractor to provide leadership training to BCPS and falsely stated that he had not received any payment of any kind, manner, or type from SUPES while it was doing business with BCPS (see Statement of Facts at 14). He further provided to the panel a fraudulent Service Agreement that he had fabricated that indicated that all proceeds received from the aforementioned work with the Chicago Public Schools were to be paid to the Baltimore County Education Foundation. Five days prior to the production of that document, he had emailed an invoice in the amount of \$53,411.00 to SUPES asking for payment of the balance he was owed for his work. Subsequent to a request by the Ethics Board to SUPES for documentation concerning the Defendant's business relationship with the company, the Defendant told Gary Solomon, one of the owners of SUPES, that the Ethics Panel had no subpoena power and could not force SUPES to turn over any records. Although requested, no documentation was supplied. After finding numerous violations of the ethics provisions by the Defendant, the Ethics Panel accepted the Defendant's offer to "cure" the violation by taking certain steps to include the removal of the consulting provision in his contract (see Statement of Facts at 15-16).

Following a second complaint to the BCPS Ethics Panel, the panel requested additional information concerning the Defendant's outside engagements and any interest in or income from Deliberate Excellence. The Defendant responded in writing that "I have not received any fees or honorariums for speaking engagements whether in the capacity of Superintendent or otherwise since I have been Superintendent of the Baltimore County Public Schools." Concerning Deliberate Excellence, he further stated,

“I have not received compensation or income of any form from the entity.” (see Statement of Facts at 16).

As a result of a second Ethics Panel investigation and findings in 2016, the Defendant filed, under oath or affirmation, an amendment to each of his previously filed Financial Disclosure Forms in August of 2016. He again failed to disclose income received in 2013 and 2015 (see Statement of Facts at 17).

In its Sentencing Memorandum, the defense indicates that the Defendant has accepted responsibility and expressed remorse yet minimizes his culpability on several fronts. For instance, it suggests that the SUPES proposal for training was significantly less than the current BCPS model and asserts that, therefore, BCPS actually benefitted financially. To support this proposition, it cites a proposal by Anissa Brown Dennis, BCPS Director of Leadership Development, wherein she states that BCPS’s existing leadership programs average about \$275,000.00 and that she would anticipate an additional \$100,000. 00 for the development of the proposed additions to their existing leadership programs. The Dennis proposal that the defense references, however, encompasses a far larger and broader comprehensive program that covered the training for approximately 450 principals and assistant principals. The SUPES training contract, on the other hand, only covered one group of up to 25 aspiring leaders. To suggest that BCPS actually saved money going with SUPES rather than utilizing the in house proposal is completely unsubstantiated and without merit.

The defense further suggests that, whereas the Defendant now recognizes “the perceived conflict of interest”, he then believed that he was serving as a consultant for a separate company, Synesi, as opposed to SUPES when he performed consulting services

(see Defendant's Sentencing Memorandum at 24-25). The evidence in this case totally belies such a contention. SUPES and Synesi, as set forth in the Statement of Facts, were inter-related companies that shared the same staff and space and had the same ownership. Furthermore, every single contract for services included in the Statement of Facts specifically references SUPES not Synesi (see Statement of Facts at 10-15). Any suggestion that the Defendant believed that he was working for a separate company than the one with which he was simultaneously negotiating a contract is simply not credible. Furthermore, these same service contracts negate the defense's subsequent assertion that the Defendant's outside work was performed primarily on weekends. His "Master Teaching" contract set forth on p.13 of the Statement of Facts set forth two full weeks of weekday trainings.

Additionally, as to the contract procurement process used to secure the 2012 contract between SUPES and the BCPS, the Defendant's Sentencing Memorandum lauds the reputation of Rick Gay, the Purchasing Manager for BCPS, and cites his comments during an interview with state investigators on the frequent use of "piggyback purchases and it concludes that the SUPES contract was "procedurally proper". It fails to mention, however, that Mr. Gay also indicated that it was "clear" that the Defendant wanted SUPES in Baltimore County and that he made it happen. He further indicated that it was never disclosed to him that the Defendant had a consulting contract with SUPES.

Finally, in discussing the actual BCPS Financial Disclosure Forms, the defense cites a recent acknowledgment by BCPS that instructions at the top of Schedule H on the Financial Disclosure form may be ambiguous. It then asserts that "[w]hile admittedly sloppy, the Defendant was not intentionally hiding the consulting work he was

performing.” (Defendant’s Sentencing Memorandum at 28). The entire Statement of Facts contradicts such an assertion. The Defendant’s communications with the owners of SUPES to include his notification to them that the Ethics Panel did not have subpoena power and could not force SUPES to turn over records and his fraudulent creation of a fake contract indicating that any payment for consulting work was to go, not to him but, to the Baltimore County Education Foundation clearly demonstrate an obvious motivation to hide the consulting work that he was performing from the Board and from the Citizens of Baltimore County. If there was ever any question about his intent to deliberately deceive when filing his initial financial disclosure forms, that question is dispelled when, after the resolution of two Ethics complaints, the Defendant filed addendums under oath that again failed to disclose his outside consulting activity. As stated above, the facts in this case set forth an ongoing pattern of deliberate deceit and self-interest that continued during his entire tenure as Superintendent of the BCPS. The above assertions made subsequent to his guilty plea, only cast doubt on the Defendant’s willingness to take responsibility for his actions.

SENTENCING CONSIDERATIONS

The primary purposes of sentencing are punishment, deterrence of the Defendant and others, and vindication of the ideal of equal justice under the law. An appropriate sentence in this case must address each of these objectives.

The Defendant

In this case, punishment of the offender is an important consideration. This continuing pattern of deceit was an egregious abuse of both the public trust and the trust placed in the Defendant by the students and parents of the BCPS. As Superintendent of

the BCPS, the Defendant was trusted and relied on by the School Board, the BCPS Ethics Panel, school administrators, principals, teachers, and parents to always act in the best interests of their students. Betrayal of that trust scars all involved and merits a strong response from this Court.

Contrary to the Defendant's assertion that the "County suffered no harm as a result of [his] failure to be fully forthcoming on the instant Disclosure Forms" (see Defendant's Sentencing Memorandum at 1), the harm is immeasurable. The Defendant has heaped disgrace on the BCPS system and disheartened the many administrators, teachers and staff that faithfully fulfill their duties on a daily basis. Most importantly, The Defendant had set himself out as a mentor and a role model to thousands of school children both here and in the other public schools in which he worked. Honest and hard working administrators and teachers now inherit the disillusionment, negative example and lack of trust in authority that his dishonesty has likely created within the student body and parent community.

Furthermore, as set forth above, this offense was obviously not a single incident crime but rather a continuous pattern of deliberate deceit and dishonest behavior over an extended period of time. It is, therefore, essential that the seriousness of the punishment be commensurate with the serious nature of the offense.

Finally, the Defendant is a well-educated man who earned a salary of \$287,800.00 plus lucrative retirement contributions and benefits at the time of his resignation as Superintendent. His actions appear to have been motivated by simple greed, not necessity. The Defense inexplicably states that the Defendant "garnered no pecuniary gain of any kind from committing the offenses" (see Defendant's Sentencing

Memorandum at 44) whereas he deliberately deceived the Board, the Ethics Panel and the citizens of Baltimore County simply so that he could continue to receive outside income above and beyond his generous salary.

Deterrence

a. Of the Defendant

Dance has entered a plea of guilty to four counts of perjury and, the State concedes, is less likely to find himself in this same position of trust in the future. The State has considered these mitigating factors in fashioning a sentence recommendation that encompasses the limited period of incarceration that it now presents to this Honorable Court.

b. Of Others (The Public Interest)

As stated earlier, the ongoing actions of the Defendant constituted an egregious abuse of the public trust. The Defendant, as Superintendent of the BCPS, was responsible for the administration of the entire public school system. His actions have served to undermine, at a minimum, the trust and confidence in the BCPS of its students and their parents and that of the public as a whole. It is essential then that the sentence of this Court send a message to any school administrator or other public official who might contemplate similar behavior that such an abuse of authority and breach of the public trust will not be tolerated.

Analysis and Recommendation of the State

Pursuant to the plea agreement entered into between the State and the Defendant, it is the recommendation of the State that Dance be sentenced to a five year period of

incarceration and that all but eighteen months of that sentence be suspended. Pursuant to that agreement, the Defendant is free to argue for a lesser disposition.

For the reasons set forth above, the State strongly urges this court to impose the entire eighteen month period of incarceration. The State's sentence recommendation falls within the lower half of the Maryland Sentencing Guidelines range that contemplate a sentence from probation to 4 years for these convictions. Moreover, as this Honorable Court is aware, the State does not see this case as a "typical" guidelines case. In fact, the Maryland Sentencing Guidelines contemplate factors for departing from the guidelines. Specifically, in the instant case, there are two factors that justify an upward departure from the guidelines; "[o]ffender exploited a position of trust" and "[o]ffender committed a 'white collar' offense". (See 14.3 of the Maryland Sentencing Guidelines Manual). The Defendant's offenses epitomize exploitation of a position of trust.

CONCLUSION

In conclusion, the State respectfully requests that this Honorable Court sentence the Defendant to a term of five years of incarceration with all but eighteen months suspended. The State believes that this is reasonable in light of the circumstances in this case.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Emmet C. Davitt", written over a horizontal line.

Emmet C. Davitt
State Prosecutor