

STATE OF NORTH CAROLINA

GUILFORD COUNTY

FILED IN THE GENERAL COURT OF JUSTICE

2019 AUG 27 P 4:52 SUPERIOR COURT DIVISION

GUILFORD COUNTY, C.S.C.

19 M 2278

BY _____

Initiation of Disciplinary Proceeding

IN RE GRAHAM HOLT

THIS GUILFORD COUNTY SUPERIOR COURT, by its inherent authority to discipline lawyers (*In re Northwestern Bonding Co.*, 16 N.C. App. 272 (1972)), now initiates a disciplinary proceeding against Graham Eugene Holt, North Carolina Bar #34817.

It has come to the Court's attention that on August 9, 2019, Mr. Holt sent an email to Mayor Nancy Vaughan and all members of the Greensboro City Council (Sharon Hightower, Goldie Wells, Yvonne Johnson, Justin Outling, Marikay Abuzwaiter, Nancy Hoffman, Michelle Kennedy and Tammi Thurm) wherein he discusses body worn camera footage of an incident where his client Zared Jones and others were arrested on January 29, 2018 by Greensboro police officers.

By Order on Petition for Release of Custodial Law Enforcement Agency Recording in 17 CVS 9539 (Petitioner Attorney Graham Holt on behalf of Zared Kinah Jones) entered January 22, 2018, Mr. Holt and his client Jones were ordered "not to disclose or discuss the body-worn camera recordings except with each other or in association with any official hearing where they are present together with the Police Community Review Board."

Mr. Holt's email to the mayor and council members is a public record and has been released as such by the City of Greensboro. Copy of said email is attached as Exhibit A.

It appears that Mr. Holt may have acted with impropriety calculated to bring contempt upon the administration of justice.

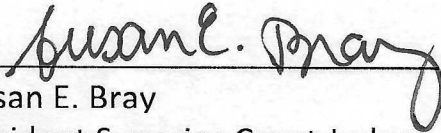
This Court appoints Attorney Walter "Kirk" Burton to prosecute this disciplinary proceeding.

This Court appoints attorneys Wendy M. Enochs, Kearns Davis and Don D. Carter as a committee to review/investigate Mr. Graham's conduct and make recommendations to the judge presiding over the disciplinary proceeding.

The Hon. Allen Baddour has been commissioned to conduct the proceeding during the September 30, 2019 session of civil superior court in Greensboro. Should this date pose a conflict or problem for Mr. Holt, the Committee or Mr. Burton, they shall notify Trial Court Coordinator Brittany Robinson by September 13, 2019 so that an alternate date can be arranged.

Be it known that the Court's authority to impose discipline applies to any lawyer practicing before the court, even if the case which gives rise to the discipline is not currently pending. *In re* Robinson, 37 N.C. App.671, 677. Further, a court using its inherent authority to discipline lawyers is not limited to the sanctions that the State Bar might impose. "Sanctions available include citations for contempt, censure, informing the North Carolina State Bar of the misconduct, imposition of costs, suspension for a limited time of the right to practice before the court, suspension for a limited time of the right to practice law in the State, and disbarment." *Id.* at 676. The court may order the misbehaving lawyer to pay attorney fees, pay a fine, and/or suspend the lawyer's right to represent indigents.

This the 27th day of August, 2019.


Susan E. Bray
Resident Superior Court Judge

This Order Initiating Disciplinary Proceeding shall be served on Attorney Graham Holt by the Guilford County Sheriff.

Copies of the Order shall be sent to Walter "Kirk" Burton, Wendy M. Enochs, Kearns Davis and Don D. Carter.

Exhibit A—Email from Graham Holt to Mayor and Council

Davis, Rosetta

From: Vaughan, Nancy (Mayor)
Sent: Friday, August 09, 2019 4:33 PM
To: newsmedia
Subject: FW: [Talk to Council Form] - CONFIDENTIAL Zared Jones

From: donotreply@greensboro-nc.gov
Sent: Friday, August 9, 2019 4:32:56 PM (UTC-05:00) Eastern Time (US & Canada)
To: Hightower, Sharon; Vaughan, Nancy (Mayor); Wells, Goldie; Johnson, Yvonne; Outling, Justin; Abuzuaiter, Marikay; Hoffmann, Nancy; Kennedy, Michelle; Thurm, Tammi
Subject: [Talk to Council Form] - CONFIDENTIAL Zared Jones

Dear Mayor Vaughan and City Council Members,

While I no longer represent Zared Jones, Clifton Ruffin, Aaron Garrett and Alfonso Thomas, I encourage you to watch the body worn camera footage of their unlawful arrests. It is imperative that you watch ALL of the footage and not an edited version.

And I would like to thank you for appealing Judge Bray's gag order which prevents myself, the Mayor Vaughan and members of the City Council from disclosing or discussing to third parties the police BWC footage. The recent ruling of the NC Court of Appeals is disturbing and sets a dangerous precedent. I hope the city plans to appeal to the NC Supreme Court.

As you all know, Judge Bray's order, while it prevents disclosure or discussion with third parties about the body worn camera footage of the incident, the order expressly grants myself, the Mayor and the City Council permission to watch the footage. I drafted this letter alone and I am not asking you to violate Judge Bray's order nor am I in violation of the order by delivery of this letter.

On January 29, 2018, I watched about four hours of the footage captured of the incident. I was not allowed to watch the footage captured when the officers involved first approached and questioned Zared and his friends near Cheesecakes by Alex downtown. I was told by Sergeant Flynt this footage was erased three months after it was captured. This is suspect to say the least because the City referred to this portion of the footage in court filings requesting release of the footage. Attorneys for the GPD were in court for all three hearings before Judge Bray and never alerted the attorneys or the Court that a crucial portion of the footage we were arguing about in open court, and which the Judge Bray referenced in various orders, had been erased.

There is an overwhelming amount of police abuse and constitutional violations in the footage. Much of the abuse captured is highly methodical and deliberate. It is your duty to watch this footage and take appropriate action. In this letter, I have chosen parts of the footage to discuss so that you will understand the gravity of the situation. But it is your duty to watch all the footage on your own. All the footage is crucially important.

On September 10, 2016, Zared Jones, Clifton Ruffin, Aaron Garrett and Alfonso Thomas were arrested in downtown Greensboro. After the four men arrived downtown and parked their car, officers approached them on

bicycles and repeatedly asked them what they were doing downtown and where they were going. The four men objected to the harassment and after some back and forth they went on their way. The police then followed the four men down Elm Street to the Boiler Room Bar near Elm Street on West McGee Street. Alphonso, alarmed that the officers were following them, began recording the officers on his cell phone. Once the four men reached the Boiler Room, Alphonso approached the bouncer, Jermain Parson who was working the front door. On the footage, Alphonso and Jermain Parson are smiling and shaking hands and being very friendly with each other. Officer Alvarez approaches Alphonso and says, "look, I got you on camera too and your loitering." Officer Alvarez then steps back onto West McGee Street and discusses arresting the men with Officers Flowers. Even though the men have not broken any laws, the officers agree with each other that "these guys are going to jail tonight". The footage reveals the officers plotted to arrest the young men long before the men had done anything but walk through downtown.

While the officers are waiting outside the Boiler Room and watching the four men, Zared Jones enters the Boiler Room only to be kicked out shortly thereafter. Inside the Boiler Room, Zared paid the bartender for a beer but the bartender refused to serve him. He was carried out by a bouncer after he asked to speak to a manager. The footage shows Zared being removed from the Boiler Room by the bouncer and he is calm and non-combative. Zared then approaches Officer Alvarez and asks him for help. Zared tells Alvarez that he was assaulted in the Boiler Room by the staff and that he wants the police to help him file a complaint with the police. Officer Alvarez ignores Zared's request and says, "you don't belong in this area". Needless to say, this a deeply disturbing response to hear coming from a police officer. On the footage, Officer Johnson then steps in and asks Zared for his identification, which Zared promptly provides. Officer Johnson orders Zared to remain in front of the Boiler Room and to wait for his return from investigating Zared's complaint.

While Officer Johnson is walking around with Zared's ID in his hand investigating Zared's complaint, Sergeant Flowers rushes up to the door of the Boiler Room and rushes back and declares that Zared Jones and his three friends had all been kicked out of the bar. Sergeant Flowers then orders the men to leave. Zared explains that he can't leave because Corporal Johnson has his I.D. and that he was ordered to remain where he was. While Zared is explaining, Sergeant Flowers, suddenly and without warning, grabs Zared by the arm and slams a handcuff down on Zared's wrist. Aaron, exasperated by what is happening to Zared, places his hand on top of Zared's handcuffed hand and says to Officer Flowers, "what are you doing?" At this moment, Officer Alvarez lunges at Aaron with both hands and pushes him with the full force of his weight. Aaron reacts by turning around swinging his hand at his unseen attacker. Officer Alvarez grabs Aaron and throws him against a nearby car. Officer Alvarez and another officer grab Aaron by the ankles and pull his feet out from under him. Aaron barley gets his hands in front of him in time to prevent his face from slamming against the sidewalk. Aaron then somehow gets up on his feet and starts backing away from the officers pleading with them to stop. Three of the officers simultaneously shoot their tasers into his body. He falls to the ground screaming and shaking in violent fits as the electricity from the tasers surges through his body. Zared was charged with Second Degree Trespassing and Intoxicated and Disruptive, both by magistrate's order sworn to by Officer Alvarez. The charging document says Zared "was disruptive in that the defendant did interfere with passage across a sidewalk." But the footage clearly shows that Zared was ordered by the police to remain in front of the Boiler Room.

Throughout the encounter, you will see the officers very deliberately giving contradictory orders to all four men. The officers can be seen and heard on the footage using contradiction and double speak as tactics designed to escalate the situation. The goal being to frustrate the young men to the point that they do something to give the officers an excuse to arrest them. On the footage, as the officers become more and more agitated, Aaron (the man who is eventually tased) and Alphonso try multiple times to get their friends to leave the scene. Every time they try an officer steps in to stop them from encouraging the others to leave. At one point, Aaron and Alphonso

approach Zared, and not knowing that Officer Johnson had Zared's ID, they plead with him to leave but are ordered to stop by Officer Alvarez. The entire time the police are doing all they can to prevent them from leaving while at the same time telling them they must go and that they are trespassing. In the footage recorded at the jail, when the officers are discussing how to fabricate the charges against the men, Officer Alvarez openly says that Aaron Garret was trying to get his friends to leave.

After Zared, Aaron and Alphonso were arrested, officers Alvarez and Johnson stand in the street and discuss what to do about Clifton. Clifton was across the street and was not present for any of the events leading to the arrest of his friends. After the others are taken to jail, Alvarez looks across the street at Clifton and says, "he doesn't even know." Meaning, Clifton didn't know that his friends had been arrested. Clifton left the scene earlier and before things escalated. At one point in the footage, Officer Johnson says he wants to keep an eye on the other guy, meaning Clifton, who had gone across the street to a different bar. Officer Johnson can be heard saying, "we need to take care of him too." After the others were arrested, Clifton, who had no idea what had happened, can be seen walking across the street to the Boiler Room hoping to locate his friends. He stops on the sidewalk at the entrance and speaks with the bouncer Jermaine Parson. Jermaine Parson greets him and does not call the police over and he does not ask Clifton to leave. The two men are simply talking to each other. Nevertheless, Officer Johnson approaches Clifton and starts questioning him. Clifton barely gets a single sentence out before Officer Johnson handcuffs him. Clifton, completely confused, begins to take a small step away from the officers. The Officers then grab Clifton and push him forward and tell him to stop resisting. Just like with the other three men, the officers are producing the appearance of resistance so they can make an arrest. Officer Wright then wraps his arm around Clifton's neck and strangles him in a half-nelson choke hold (the same style choke hold which famously killed Eric Garner in New York City in 2014). Clifton's body is completely still while he is being choked and he clearly cannot breathe. Despite Clifton's lack of movement or resistance, Officer Wright continues to choke him as he repeatedly tells Clifton to stop resisting. Just before he loses consciousness, Officer Wright releases the choke hold and Clifton is taken to jail. Clifton had no idea what had happened to his friends and at no point in the evening did he break the law. He was stalked by the police, strangled and taken to jail for nothing.

Clifton and Zared were both charged with second degree trespass and intoxicated and disruptive while Alfonso was only charged with second degree trespass. Aaron was charged with second degree trespass, resist public officer and assault on a government official. On June 28, 2017, Aaron went to trial in Guilford County District Court. The second-degree trespass was dismissed by the Judge at the close of State's evidence and he was found not guilty of resist public officer but was found guilty of assault on government official. After months of court dates, all the charges filed against Zared, Clifton and Alphonso were dismissed.

All four men were charged with second degree trespassing by magistrate orders sworn to, respectively, by Officers Alvarez, D. M. Harmon, F. T. Wright and J. M. Chavez. All four documents list Jermaine Parson as the sole civilian witness and the person who notified the men to leave the Boiler Room. However, the footage clearly shows that this was fabricated by the officers. On the footage, Officer Johnson asks the Boiler Room bouncer Jermaine Parson if he dealt with the men and he answers, "no". But then just to placate Officer Johnson, Jermaine Parson says, "but you can use my name if you want." Throughout the footage, Jermaine Parson is clearly happy the young men were there and can be seen shaking their hands and he even has his arm around Alphonso as they joke and laugh together. This display of comradery can be seen to have occurred after the time the officers allege that the men, other than Zared, had been kicked out of the bar.

Please watch the entirety of the footage. It is my understanding that the Police Community Review Board watched an edited version of the footage. It is imperative that you watch all of the footage and not an edited

version. Every moment of the footage is important. Thank you.

Sincerely,

Graham Holt

Contact Information

Name: Graham

Phone: 3365012001

Email Address: gholtpllc@gmail.com

Address: 301 S ELM ST SUITE 501
GREENSBORO, NC 27401

Sent To:

MAYOR AND ENTIRE CITY COUNCIL

**Exhibit B—Order on Petition for Release of Custodial Law
Enforcement Agency Recording 17 CVS 9539**

1/24/18

STATE OF NORTH CAROLINA

17 CVS 9539

Guilford County

In The General Court Of Justice
Superior Court Division

IN THE MATTER OF
CUSTODIAL LAW ENFORCEMENT AGENCY
RECORDING SOUGHT BY:

FILED

ORDER ON PETITION FOR RELEASE OF
CUSTODIAL LAW ENFORCEMENT AGENCY
RECORDING

Name Of Petitioner
Attorney Graham Holt (on behalf of Zared Kinah Jones)

2018 JAN 23 P 12:08

Address
The Law Office of Graham Holt
PO Box 41023

GUILFORD CO., C.S.C.

City, State, Zip
Greensboro, NC 27404

G.S. 132-1.4A(f) - Person authorized to receive disclosure
 G.S. 132-1.4A(g) - General

This matter came before the undersigned Superior Court Judge to determine whether release of a law enforcement agency recording is warranted under Chapter 132 of the General Statutes. Following a hearing, the Court makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

- 1. On 12/14/2017 (date), the petitioner named above filed a petition for release of a custodial law enforcement agency recording to Attorney Graham Holt on behalf of Zared Kinah Jones.
- 2. Petitioner served did not serve a copy of the the petition on the head of the custodial law enforcement agency and the District Attorney.
- 3. The head of the custodial law enforcement agency did did not give notice of the petition and hearing to all law enforcement agency personnel whose image or voice is in the recording and also to the head of each such person's employing agency.
- 4. Each person entitled to be notified of this proceeding was was not given an opportunity to be heard, either individually or by such person's designated representative.
- 5. The Court conducted an in-camera review of the recording on Jan 17-21, 2018 (date). 6913
- 6. The recording was made was made in some portion was not made in this county.

- 7. Request made pursuant to G.S. 132-1.4A(f)
The Court determined that the person to whom release of the recording is sought is the following:
(NOTE TO JUDGE: "Personal representative" is defined as "A parent, court-appointed guardian, spouse, or attorney of a person whose image or voice is in the recording. If a person whose image or voice is in the recording is deceased, the term also means the personal representative of the estate of the deceased person; the deceased person's surviving spouse, parent, or adult child; the deceased person's attorney; or the parent or guardian of a surviving minor child of the deceased." G.S. 132-1.4A(a)(5).)
 - A person whose image or voice is in the recording.
 - A personal representative of an adult person whose image or voice is in the recording and the adult person has consented to the disclosure.
 - A personal representative of a minor or of an adult person under lawful guardianship whose image or voice is in the recording.
 - A personal representative of a deceased person whose image or voice is in the recording.
 - A personal representative of an adult person who is incapacitated and unable to provide consent to disclosure.
 - None of the above.

and

The Court considered the applicability of all of the standards in G.S. 132-1.4A(g) and determined the following:

- Release is necessary to advance a compelling public interest.
- The recording contains information that is otherwise confidential or exempt from disclosure or release under State or federal law.

(Over)

17 CVS 9539

Attachment A

Attachment A

Recordings are to be viewed in presence and under direction and control of the Greensboro Chief of Police or his designee. No one other than Attorney Graham Holt and his client Zared Kinah Jones shall be present. No photographs, screen shots or other duplications or recordings of the body-worn camera footage shall be made. Attorney Graham Holt and his client Zared Kinah Jones shall sign a pledge of confidentiality and are not to disclose or discuss the body-worn camera recordings except with each other or in association with any official hearing where they are present together with the Police Community Review Board. The Court is aware that Zared Kinah Jones could have issued a subpoena for these recordings as related to his criminal cases, but he chose not to pursue that route. Failure to comply with these restrictions subjects Attorney Holt and Zared Kinah Jones to the contempt powers of the court (fine of up to \$500 and imprisonment of up to 30 days). If any of these restrictions pose a substantial impediment to Attorney Holt or Zared Kinah Jones, he may ask the Court to modify the restrictions (upon notice and an opportunity to be heard to the affected parties).