

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE

Quarterly meeting

Monday, March 27, 2023

5800 West Tenth Street, Room 906

Little Rock, AR 9:20 a.m.

MINUTES

Members present: in person - Tonya Boydston, presiding; Amy Lance; Rita Stone; Erin McGinnis. Virtually- Mary Burton, Jason Martin, Wade Strawn, Lois Ware
Called to order at 9:20 a.m.

Call to order -Boydstun

Roll Call -

Approval of minutes

motion to approve-Lance; second-McGinnis, minutes approved as written

Approval of paid violations

motion to approve- Lance; second- McGinnis, paid violations approved

Hearing- verbatim transcript under separate cover

Pre-license Petition approvals

Applicants 1-5

Motion to approve all five - McGinnis; second -Ware

All five approved

Program Updates Kelli Kersey

Launched Body Art into CLIPS system. It has issues, trying to work out the issues.

No legislative updates.

Public Comment

Tina Reagan - request for information on whether anything else has been learned about CIT or PSI testing, regarding discrepancies between the test and the rules on the website on what age one can start cosmetology.

Also a discrepancy between the number of theory hours needed. The testing agencies will not divulge missed answers to questions. Reagan was asked to submit a written request regarding this matter to the department in order to look into it.

Adjourned at 10:00 a.m. Next meeting September 25, 2023

ARKANSAS STATE COSMETOLOGY TECHNICAL ADVISORY COMMITTEE

HEARING

ARKANSAS DEPARTMENT OF HEALTH

PETITIONER

V.

JOHN WILLIS JAMES, JR.

RESPONDENT

MONDAY, March 27, 2023
Commencing at 9:25 a.m.
5800 West 10th Street, Room 906
LITTLE ROCK, ARKANSAS

ADAM JACKSON, Hearing Officer

COMMITTEE MEMBERS PRESENT:

Tonya Boydston, Chair
Amy Lance
Rita Stone
Erin McGinnis
Virtually -
Mary Burton
Jason Martin
Wade Strawn
Lois Ware

ON BEHALF OF THE MASSAGE THERAPY TECHNICAL ADVISORY
COMMITTEE:

CRAIG SMITH, Esq.
Arkansas Department of Health
4815 W. Markham
Little Rock, AR 72205

Reported and Transcribed by Stephanie G. Branton, CCR
Gibson-Branton Reporting Service, 501-960-6313

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1 PROCEEDINGS - 9:25 a.m.

2 MR. JACKSON: My name is Adam Jackson. I'm an
3 assistant attorney general. And I'm the hearing officer today
4 in the matter of John Willis James, Junior, which is to be
5 heard before the Cosmetology Technical Advisory Committee.

6 Today is Monday, March 27, 2023.

7 Will the respondent, Mr. James, identify yourself, for the
8 record?

9 MR. JAMES: John James.

10 MR. SMITH: If you don't mind coming up and taking
11 a seat right there.

12 MR. JACKSON: And so we can get you on the recording,
13 if you could identify yourself again.

14 MR. JAMES: I'm John James, Junior.

15 MR. JACKSON: Okay. Mr. James, are you represented by
16 counsel here today?

17 MR. JAMES: No sir.

18 MR. JACKSON: Okay. Did you receive a copy of the
19 order and notice of hearing?

20 MR. JAMES: Yes sir.

21 MR. JACKSON: And are you ready to proceed today?

22 MR. JAMES: Yes sir.

23 MR. JACKSON: Board's counsel, can you identify
24 yourself, for the record?

1 MR. SMITH: Craig Smith, attorney for the Arkansas
2 Department of Health.

3 MR. JACKSON: For the benefit of anyone present today
4 who may not have appeared in an administrative hearing, the
5 committee will base its decision solely on the evidence
6 presented here.

7 This hearing is held under the Administrative Procedures
8 Act, which means that the strict rules of evidence do not
9 apply, and the parties will be given latitude in introducing
10 the evidence.

11 This is to promote a fair hearing and provide the committee
12 with adequate information to make a decision.

13 To ensure the efficiency of the proceeding, I will grant
14 objections or caution the parties only as necessary. If there
15 is anything that you have in your possession that you want the
16 committee to consider, you must offer it today.

17 All participants to the hearing should be aware that these
18 proceedings are subject to the Freedom of Information Act.
19 And as such, all parts of the hearing, including the
20 deliberations, are open to the public.

21 It is important that all persons necessary to the hearing
22 are in the room during the hearing. If the party, attorney or
23 committee member needs to take a break or leave the room,
24 advise me and we'll take a break from the hearing.

1 Who are going to be the witnesses here today?

2 MR. SMITH: I don't believe I'll need a witness.

3 MR. JACKSON: Okay, and Mr. James, are you going to
4 testify on your own behalf?

5 MR. JAMES: Yes sir.

6 MR. JACKSON: Okay. Well, I'll go ahead and swear
7 you in, if you'll raise your right hand.

8 [Whereupon John James, Junior swore to tell the truth in these
9 proceedings.]

10 MR. JACKSON: As far as the preliminary matters go,
11 prior to the meeting, I know the packet was e-mailed out. I
12 gave instructions -- I'm just putting this on the record. I
13 gave instructions that the members are not to open that until
14 the packet is admitted, assuming it is admitted.

15 And I'm going to trust the committee members followed my
16 instructions to not open that packet. Counsel, I'll turn it
17 over to you.

18 MR. SMITH: Thank you, Your Honor. What we have
19 sent out is a packet with the exhibits. The first exhibit is
20 the notice of hearing that was delivered to Mr. James.

21 The second exhibit was confirmation that it was delivered,
22 as Mr. James has appeared today. And the third is an order --
23 it's a procedural order form from the three matters before the
24 circuit court, and which I will note in the record for

1 addressing those three cases with their included charges.

2 Those are the three exhibits.

3 MR. JACKSON: Do you have any objections to those?

4 MR. JAMES: No. This is for the suspension of my
5 license, right?

6 MR. JACKSON: Yes sir.

7 MR. JAMES: Okay, so I just -- can I say something?

8 MR. JACKSON: There will be a chance for you to speak
9 in just a minute. This is a preliminary issue.

10 MR. JAMES: Okay.

11 MR. JACKSON: Just about admitting this packet.

12 MR. JAMES: Okay.

13 MR. JACKSON: This is really just if you have any
14 objection to the packet?

15 MR. JAMES: No sir.

16 MR. JACKSON: Okay. Then the packet will be
17 admitted. I'll go ahead -- I guess I can give you a little
18 bit more explanation of kind of the proceedings and how they
19 work.

20 This is -- you know, a licensure hearing is a little less
21 formal than like a courtroom proceeding. There will be the
22 general back and forth of they'll get to present evidence, and
23 then you'll get to respond or ask questions of any witnesses.

24 Then you'll get to present your case. And the committee

1 will get to ask questions of you. It's a lot more informal
2 than a courtroom proceeding. Trust me, I am not a judge.

3 MR. JAMES: Okay.

4 MR. JACKSON: I'm just kind of a hearing officer --
5 glorified hall monitor, basically. Did that kind of answer
6 your question?

7 MR. JAMES: Yeah, but I already suspended my
8 license myself. I'm not tattooing in a tattoo shop. I don't
9 go to the tattoo shop until after everything is over with.
10 I'm dealing with too much in life right now to be going back
11 and forth at the tattoo shop.

12 I've been tattooing since I was eight, nine years old. But
13 I do not be at the tattoo shop, and I have suspended my own
14 license, and the court has too. So I don't go to the tattoo
15 shop.

16 MR. SMITH: For clarification, Mr. James, and just
17 to make sure that you're aware as well.

18 In the notice of hearing, under our -- under the Department
19 of Health's administrative powers, due to the charges that
20 have been made, we suspended your license under our licensure
21 program.

22 MR. JAMES: Uh-huh.

23 MR. SMITH: You know, the court has --

24 MR. JAMES: Yes sir.

1 MR. SMITH: I understand as you said the court has
2 given an injunction for you to not practice body art. Our
3 part there in corresponding was to suspend under our emergency
4 powers.

5 MR. JAMES: Yes sir.

6 MR. SMITH: The suspension -- our intention is that
7 the suspension is to last until the adjudication of those
8 charges -- until you are either found guilty, not guilty, or
9 any pleas.

10 And then at such time, come back to address whether or not
11 based on what happens there, whether or not you are able to
12 have your license reinstated or not.

13 But the hearing today is because that exercise of that
14 power by the Department of Health to suspend your license was
15 under emergency powers, it has to be heard by this body to
16 confirm that suspension.

17 MR. JAMES: Okay. I just -- I didn't want to go
18 through all the questions and everything, because I'm already
19 out of work, already took myself out of --

20 MR. SMITH: I understand. Yeah, this is --

21 MR. JAMES: I understand what you guys got to do,
22 and I'm here for it. But I'd rather not answer questions. I'd
23 rather just take the license suspension until everything is
24 all worked out.

1 MR. JACKSON: And I'll do everything within my power
2 to make sure that questions relating to the underlying charges
3 aren't asked, because I don't want to risk violating your
4 Fifth Amendment rights.

5 So counsel, are you ready to proceed?

6 MR. SMITH: Yeah, I'll be quick. As you guys can
7 open and review the documents that were shared with you. The
8 first was the notice of hearing for Mr. James to appear before
9 the committee this morning.

10 If you'll note in the notice of hearing, the statement of
11 facts that there are four cases that have been filed and
12 charges alleged against Mr. James, three of them in circuit
13 court.

14 And on Exhibit 3 this is a procedural order from the court.
15 And so I'm only noting for the record here that first
16 paragraph, which outlines by the court the three cases in the
17 circuit court, and the charges tied to each one.

18 Pursuant to our rules for body art and Arkansas law, based
19 on these charges, Arkansas Department of Health has suspended
20 Mr. James' license.

21 As I understand it -- and please correct me if I'm wrong --
22 I understand the circuit court has issued an injunction,
23 although I have not seen it reduced to an order, stating that
24 you are not to practice body art until the adjudication of

1 these crimes, but that you may teach two days a week.

2 MR. JAMES: Still don't.

3 MR. SMITH: Okay. Is that the correct
4 understanding of what the judge stated to you?

5 MR. JAMES: Yes sir.

6 MR. SMITH: So our -- what we are requesting that
7 you guys approve -- that the committee approves today is the
8 continued suspension under the similar terms that the circuit
9 judge issued. And that will last until the three cases are
10 adjudicated and finally resolved.

11 And based on that, the outcome of whatever happens there,
12 we will then asked Mr. James to return to the committee to
13 determine whether or not he may have his license reinstated,
14 or possibly revoked at that time, depending on the outcome
15 there.

16 Are we clear -- this is just for the continued suspension,
17 that there is not a vote or an option for a vote for
18 revocation at this time.

19 MS. BOYDSTUN: So do we need a motion that this is
20 continued? Do we need to --

21 MR. JACKSON: So you're not presenting any witnesses?

22 MR. SMITH: No.

23 MR. JACKSON: And just in case it was not put on the
24 record, the packet of exhibits was admitted.

1 Mr. James, do you have any -- I mean, I know you kind of
2 said something earlier. But do you have anything else to add?

3 MR. JAMES: Nothing, except for I've been tattooing
4 for about nine, ten years, and I was the first young Black man
5 to do it, and I understand the charges, I understand the
6 cases.

7 And I understand what I'm going through. So I can't talk
8 about it -- to say this or say that. But I'm going through
9 it.

10 MR. JACKSON: Okay. Does the committee has any
11 questions?

12 MS. BOYDSTUN: We do not.

13 MR. JACKSON: Seeing as there are no questions,
14 counsel, I'll turn it back over to you. If you need any kind
15 of closing or if y'all are just ready to have any kind of
16 vote.

17 MR. SMITH: Just to be clear, the department is
18 asking for the committee to continue the suspension until
19 adjudication of the charges in the four cases noticed in the
20 hearing -- excuse me, the four cases in the notice of hearing.

21 MR. JACKSON: Yeah, I was going to give instructions
22 about going off the record, but it sounds like procedurally,
23 y'all are ready to -- okay, I turn it over to the chair to
24 conduct further proceedings related to this.

1 MS. BOYDSTUN: Okay, want to make a motion?

2 MS. MCGINNIS: Make a motion to continue this --

3 MR. SMITH: To consider the suspension until
4 adjudication of the crime -- the charges?

5 MS. MCGINNIS: Yes.

6 MS. LANCE: I second the motion.

7 MS. BOYDSTUN: All in favor.

8 MR. STRAWN: You're breaking in and out. You were
9 kind of whispering. You need to talk a little louder, please.

10 MS. BOYDSTUN: All in favor.

11 MR. SMITH: Wait, did you hear the motion clearly?

12 MR. STRAWN: I did not. I did not.

13 MR. SMITH: I'll reiterate. Erin's motion is to --
14 the motion to continue the suspension until the adjudication
15 of all the charges listed in the notice of hearing.

16 MR. STRAWN: I agree with that motion -- aye.

17 MS. LANCE: And I second the motion.

18 MS. BOYDSTUN: All in favor?

19 BODY: Aye.

20 MS. BOYDSTUN; Motion carries.

21 MR. JACKSON: Let the record reflect that the motion
22 -- the decision of the committee was unanimous. Counsel, if
23 you can reduce the committee's decision to writing and serve
24 it on Mr. James. Mr. James, if you would care to appeal any

1 decision, it can be taken under any specific provisions
2 relating to this board under the Administrative Procedures
3 Act, found in Arkansas Code Annotated 25-15-201, et. seq.

4 If there are no other questions or comments, this hearing
5 is concluded and the record is closed.

6 [Whereupon the proceeding concluded at 9:40 a.m.]

1 CERTIFICATE

2 STATE OF ARKANSAS]

3 COUNTY OF PULASKI] ss

4 I, Stephanie G. Branton, an Arkansas Certified Court Reporter
5 for the State of Arkansas, do certify that a verbatim record
6 of these proceedings was taken and reduced to typewriting by
7 me; that this transcript is a true and correct record of the
8 proceedings, to the best of my knowledge and belief. I further
9 certify that I am neither counsel for, related to, nor
10 employed by any of the parties to this action; I am not a
11 relative or employee of any attorney or counsel employed by
12 the parties, nor financially or otherwise interested in the
13 outcome of this action; that I have no contract with the
14 parties, attorneys, or any person with an interest in this
15 action that would affect impartiality. WITNESS MY HAND AND
16 SEAL as court reporter on this 3rd day of April, 2023

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STEPHANIE G. BRANTON, CCR

