

BEFORE THE VIRGINIA DEPARTMENT OF HEALTH PROFESSIONS

IN RE: DAVID LUNDY FLANAGAN, JR., L.M.T.
License Number: 0019-013291
Case Number: 178170

ORDER OF MANDATORY SUSPENSION

In accordance with Virginia Code § 54.1-2409, I, David E. Brown, D.C., Director of the Virginia Department of Health Professions, received and acted upon evidence that David Lundy Flanagan, Jr., L.M.T., was convicted of a felony offense, to wit: one count of aggravated sexual battery, in the Circuit Court of the City of Radford, Virginia. A certified copy of the Conviction and Sentencing Order is attached hereto as Commonwealth's Exhibit 1.

WHEREUPON, by the authority vested in the Director of the Department of Health Professions pursuant to Virginia Code § 54.1-2409, it is hereby ORDERED that the right of David Lundy Flanagan, Jr., L.M.T., to renew his license to practice massage therapy in the Commonwealth of Virginia is hereby SUSPENDED.

Upon entry of this Order, the license of David Lundy Flanagan, Jr., L.M.T., will be recorded as suspended. Should David Lundy Flanagan, Jr., L.M.T., seek reinstatement of his license pursuant to Virginia Code § 54.1-2409, he shall be responsible for any fees that may be required for the reinstatement of the license prior to issuance of the license to resume practice.

Pursuant to Virginia Code § 2.2-4023 and § 54.1-2400.2, the signed original of this Order shall remain in the custody of the Department of Health Professions as a public record and shall be made available for public inspection or copying on request.



David E. Brown, D.C., Director
Virginia Department of Health Professions

Certified True Copy

By 

Virginia Board of Nursing

ENTERED:

7/10/17

1700602



CONVICTION AND SENTENCING ORDER

VIRGINIA: IN THE CIRCUIT COURT OF THE CITY OF RADFORD

Hearing Date: June 6, 2017
Judge: Josiah T. Showalter, Jr.

**FEDERAL INFORMATION PROCESSING
STANDARDS CODE: 750**

COMMONWEALTH OF VIRGINIA

V.

FELONY NO. CR17015001-00
MISDEMEANOR NOS. CR17015003-00,
CR17015015-00, CR17015025-00, CR17015045-00
CR16014816-00

DAVID LUNDY FLANAGAN, JR., DEFENDANT

This day came the defendant, who appeared in person with his attorney, James C. Turk, Jr. The Commonwealth was represented by Christian Rehak. ✓

Pursuant to Section 19.2-165 of the Code of Virginia, as amended, the Court **ORDERS** that the recording verbatim of the evidence and incidents of trial be made in all felony cases. It shall be made by an electronic device approved by the Court.

Whereupon the defendant waived the reading of the indictments pending against him and after being advised by his counsel pleaded **GUILTY** to the indictments which pleas were tendered by the defendant in person, and after being first advised by his counsel and by the Court of her right to trial by jury, the defendant in person, knowingly and voluntarily waived trial by jury, and with the concurrence of the Attorney for the Commonwealth and of the Court, the Court proceeded to try these cases without the intervention of a jury as provided by law.

The Court having been advised by the accused, his counsel and the Attorney for the Commonwealth that there has been a plea agreement in these cases, and such agreement in writing having been presented to the Court and now filed herein, and the evidence of the Attorney for the Commonwealth having been submitted to the Court in the form of an oral statement by the Attorney for the Commonwealth on June 6, 2017, following which counsel for the accused agreed and stipulated that such statement accurately reflected all

of the evidence which would be presented by the witnesses if they were called in person, the Court accepts said agreement and the plea of guilty of the accused and finds the accused GUILTY of the following offenses:

CASE NUMBER	OFFENSE DESCRIPTION AND INDICATOR (F/M)	OFFENSE DATE	VA. CODE SECTION
17-15001	Aggravated Sexual Battery (F)	11/1/16	18.2-67.3(A)(2)
17-15003	Sexual Battery (M)	11/1/16	18.2-67.4
17-15015	Sexual Battery (M)	11/1/16	18.2-67.4
17-15025	Sexual Battery (M)	1/1/16	18.2-67.4
17-15045	Sexual Battery (M)	1/1/16	18.2-67.4
16-14816	Sexual Battery (M)	1/1/16	18.2-67.4

Pursuant to the provisions of Code Section 19.2-298.01, the Court has considered and reviewed the applicable discretionary sentencing guidelines and the guidelines worksheets. The sentencing guidelines worksheets and the written explanation of any departure from the guidelines are **ORDERED** filed as a part of the record in these cases.

Before pronouncing the sentence, the Court inquired if the defendant desired to make a statement and if the defendant desired to advance any reason why judgment should not be pronounced.

Accordingly, it is the judgment of this Court that the accused is hereby sentenced in accordance with the aforementioned plea agreement to:

Incarceration with the **Virginia Department of Corrections** for the term of: Ten (10) years on case no. CR17015001-00 and twelve (12) months each on case nos. CR17015003-00, CR17015015-00, CR17015025-00, CR17015045-00 and CR16014816-00. The sentences shall run concurrent with each other. The total sentence imposed is ten (10) years.

The Court **SUSPENDS** nine (9) years, seven (7) months, for a total suspension of nine (9) years, seven (7) months, for a period of ten (10) years, and upon the following conditions:

Unsupervised Probation. The defendant is placed on unsupervised probation upon release from incarceration for one (1) year, or unless sooner released by the Court.

Costs. The defendant shall pay costs plus a \$500.00 fine on case no. CR17015001-00 and a \$100.00 fine each on case nos. CR17015003-00, CR17015015-00, CR17015025-00, CR17015045-00 and CR16014816-00, for a total fine of \$1000.00.

Registered Sex Offender. The defendant shall register as a Sex Offender.

Saliva sample. It is **ORDERED** that pursuant to Section 19.2-310.3 of the Code of Virginia, as amended, the defendant shall have a sample of his saliva taken for analysis. The Court **ORDERS** that the defendant cooperate fully and promptly in permitting said withdrawal of saliva.

The defendant shall surrender his Massage Therapist License and shall never again work as a Massage Therapist.

The defendant shall have no contact with the victims.

Credit for time served. The defendant shall be given credit for time spent in confinement while awaiting trial pursuant to Virginia Code Section 53.1-187.

The Court certifies that the defendant and his counsel were present at all times during the trial of these cases.

69.17

DATE

ENTER:

Jonathan S. Swatter
JUDGE

DEFENDANT IDENTIFICATION:

XXX-XX-

DOB: -----

SEX: MALE

SENTENCING SUMMARY:

TOTAL SENTENCE IMPOSED: TEN (10) YEARS

TOTAL SENTENCE SUSPENDED: NINE (9) YEARS, SEVEN (7) MONTHS

A TRUE COPY:

TESTE:

Angel Turpin
DEPUTY CLERK
CIRCUIT COURT, RADFORD, VA.

VIRGINIA: IN THE CIRCUIT COURT OF THE CITY OF RADFORD

COMMONWEALTH OF VIRGINIA

PLEA AGREEMENT

CR16014816-00 thru 4827-00
Case #s. CR17015001-00 thru 5047-00

v.

DAVID LUNDY FLANAGAN, JR.

Defendant

DOB: _____

SSN: _____

This PLEA AGREEMENT is entered into between defendant, DAVID LUNDY FLANAGAN, JR., his/her attorney, JAMES C. TURK, JR., and the COMMONWEALTH'S ATTORNEY for the City of Radford, or one of the Commonwealth's assistants, in accordance with Rule 3A:8(c) of the Rules of the Supreme Court of Virginia.

(1) This PLEA AGREEMENT covers the below offense(s) in which the defendant was indicted by the Radford City Grand Jury:

Case Number(s)	Offense/Indicator	Code Section	Offense Date	Punishment
CR16014816-00 thru 4827-00	Sexual Battery	18.2-67.4	11-02-2016	
CR17015001-00	Agg Sex. Battery	18.2-67.3	11-01-2016	
CR17015002-00	Object Sex. Pen. by Force	18.2-67.2	11-01-2016	
CR17015003-00 thru 5021	Sexual Battery	18.2-67.4	11-01-2016	
CR17015022-00 thru 5032	Sexual Battery	18.2-67.4	01-01-2016	
CR17015033-00 thru 5038-00	Sexual Battery	18.2-67.4	03-01-2016	
CR17015039-00 thru 5046	Sexual Battery	18.2-67.4	02-01-2016	
CR17015047	Sexual Battery	18.2-67.4	01-01-2016	

(2) The defendant agrees to plead GUILTY CR JCT DF to the indictment(s) as charged or amended as set forth below, understanding such plea is an admission he/she committed the crime(s) and that there would be evidence sufficient for a finding of guilt.

A TRUE COPY:
TESTE: [Signature]
DEPUTY CLERK
CIRCUIT COURT, RADFORD, VA.

(3) The defendant further agrees to the specific sentence set forth below and not to petition the Court for a modification or additional suspension of any sentence imposed in compliance with this PLEA AGREEMENT.

(4) Upon the defendant's plea and his/her other promises contained in this AGREEMENT, the Commonwealth agrees that the following specific sentence shall be the appropriate disposition:

<u>Offense</u>	<u>Sentence</u>	<u>Fine</u>
CR17015001-00, Agg. Sexual Battery (F)	10 yrs. in jail; 9 yr. 7 mo. suspended.	\$500.00
CR17015003-00, Sexual Battery (M)	12 mos. in jail; 12 mo. susp.	\$100.00
CR17015015-00, Sexual Battery (M)	12 mos. in jail; 12 mo. susp.	\$100.00
CR17015025-00, Sexual Battery (M)	12 mos. in jail; 12 mo. susp.	\$100.00
CR17015045-00, Sexual Battery (M)	12 mos. in jail; 12 mo. susp.	\$100.00
CR16014816-00, Sexual Battery (M)	12 mos. in jail; 12 mo. susp.	\$100.00

Defendant to permanently surrender massage license; defendant shall never again work as massage therapist; sentences to run concurrent; credit for time served; inactive probation upon release; no contact with victims; register as sex offender

Remaining charges nolle prossed.

Suspension of Sentence:

The execution of the jail sentence shall be suspended for a period of: ten (10) years.

Probation:

Defendant shall be on ^{inactive} ~~active~~ supervised probation for one year upon release, which shall be supervised by n/a, unless later modified by the Court.

Special Conditions:

Defendant shall pay restitution in the amount of \$ n/a to n/a, through the Clerk of Court and monitored by the probation officer.

Defendant shall not return to n/a or contact with any victims.

The Commonwealth shall recover her costs.

SENTENCE SUMMARY (total for all offense listed above)

INCARCERATION	10 years
Time to serve	5 months
Time suspended	9 years, 7 months
FINES	\$1,000.00
Fine to pay	\$1,000.00
Fine suspended	0
PERIOD OF SUSPENSION	10 years
PROBATION	1 year. (inactive)
Supervised probation	none
COMMUNITY SERVICE	n/a
D/L SUSPENDED / RESTRICT	n/a
RESTITUTION	n/a
OTHER CONDITIONS	Surrender any massage license; never work as a massage therapist; sentences run concurrent; credit for time served; no contact with victims; to register as sex offender.

Sentencing Guideline Recommendation:

~~_____~~
1 day - 3 mos (B) CR JCT DLF

(5) It is understood by the defendant that the Court may accept or reject this PLEA AGREEMENT or postpone its decision to accept or reject it until there has been an opportunity to consider a pre-sentence report of his background and previous criminal history.

(6) The defendant understands that if the Court rejects this PLEA AGREEMENT then neither party shall be bound by the agreement and the defendant shall have the right to withdraw his/her plea of guilty; that if he/she does not withdraw his/her plea, the disposition of the case may be less favorable than that provided for by this agreement as the Court may impose any sentence permitted by law for the offenses involved; and that if he does withdraw his/her plea, this case will be heard by another judge, unless the parties otherwise agree, and that the plea entered under this agreement shall not be admissible against him/her and any charges amended shall be reinstated.

(7) The Court has not participated in any way in the discussions leading to this PLEA AGREEMENT.

(8) The defendant acknowledges and understands that by entering into this PLEA AGREEMENT and pleading guilty to the charge:

- He/She waives his/her right to a jury trial;
- He/She waives his/her right not to incriminate himself;
- He/She waives his/her right to confront and cross-examine his/her accusers;
- He/She waives his/her right to defend himself/herself and to compulsory process to have evidence and/or witnesses presented on his/her behalf;
- He/She may waive his/her right to appeal the decision of the Court;
- He/She cannot be promised how much time he/she will be confined to serve a particular sentence;
- He/She cannot be promised where he/she will be confined to serve his/her sentence; and,
- He/She will receive credit for any time spent in jail awaiting trial of this charge if such time has not already been credited to another sentence.

(9) The defendant acknowledges that:

- He/She has received a copy of the indictment and discussed it with his/her attorney;
- His/Her attorney has discussed with, and explained to him/her, the nature of the charge, the elements of the offense, and punishment if convicted;
- He/She has discussed with his/her attorney the facts and circumstances of the case, as known to the defendant, and any defense he/she may have to the offense(s);
- Each and every particular of this PLEA AGREEMENT and the effects thereof have been fully explained to him/her by counsel;
- He/She has had ample time to discuss any defense to the charge and to decide what his/her plea should be; and,
- He/She has entered into this agreement freely and voluntarily and without promise or threat from any source, and that he/she respectfully asks the Court to accept this PLEA AGREEMENT.

(10) The defendant, his/her counsel, and the Commonwealth's Attorney agree that this written PLEA AGREEMENT contains all the terms of the agreement between them and that the Court has not participated in any way in the discussion leading to this PLEA AGREEMENT.

ENTERED into this 6TH day of JUNE, 2017 by and between:

Carl Hanger
Defendant

[Signature]
Counsel for Defendant

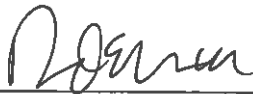
COMMONWEALTH OF VIRGINIA
BY: *[Signature]*
Commonwealth's Attorney or Assistant CA for the City of Radford

The COURT, being of the opinion that the defendant's plea of guilty and waiver of trial by jury are freely and voluntarily made, that he/she understands the nature of the charge(s) and the consequences of his/her plea and the terms of this PLEA AGREEMENT, accepts the defendant's plea and this PLEA AGREEMENT and its terms this 6th day of June, 2017.

Josiah I. Swartz
JUDGE

CERTIFICATION OF DUPLICATE RECORDS

I, David E. Brown, D.C., Director of the Department of Health Professions, hereby certify that the attached Conviction and Sentencing Order entered June 9, 2017, regarding David Lundy Flanagan, Jr., L.M.T., is a true copy of the records received from the Circuit Court of the City of Radford, Virginia.



David E. Brown, D.C.

Date: 7/10/17