

meager \$26-thousand dollars. Why is the prosecution of a Pelley for the prolonged and systematic theft of \$835-thousand dollars of client fees less important? Why is the prosecutor's office not pursuing this crime? Pelley is a cannabis lawyer who continues to assist criminals hiding within Washington's cannabis system, is this not a critical area that should be treated as urgent by the State of Washington. I see no legitimate reason not to charge Aaron Pelley with at least theft, embezzlement, and destruction of evidence.

Sincerely,

Anne van Leynseele

-----Original Message-----

From: Hinds, Patrick <Patrick.Hinds@kingcounty.gov>

To: avanley [REDACTED]

Sent: Fri, Apr 2, 2021 9:26 am

Subject: Aaron Pelley (SPD # [REDACTED]) - State's decision on charging

Ms. van Leynseele,

I wanted to let you know directly that the State has finished its review of this matter and will not be filing charges against Mr. Pelley at this time. We understand that you feel extremely victimized by Mr. Pelley and we are very sorry for the negative impacts this has had on you personally and professionally. I know this is not the decision you were hoping for and I'm sorry for any disappointment. However, based on the investigation by SPD and the evidence we have reviewed, we are unable to pursue this as a criminal matter. Below is some additional information regarding our decision. I offer this knowing that it will not change your feelings, but did want to give you an explanation as to why we are making it.

In summary, KCPAO has long-standing Filing And Disposition Standards (FADS) that set forth, *inter alia*, the general evidentiary thresholds we apply in deciding whether or not to file cases. Under these FADS, we can only file charges in property crimes such as these if "the admissible evidence is of such convincing force as to make it probable that a reasonable and objective fact-finder would convict after hearing all the admissible evidence and the most plausible defense that could be raised." That standard is in line with that set forth in RCW 9.94A.411(2) and further assumes that the jury will properly presume the defendant innocent and hold the State to its burden of proving every element of any crime beyond a reasonable doubt. Unfortunately, we do not believe that the evidence in this case is sufficient to meet that standard. We are sending a formal Decline memo to SPD as part of our process. That memo has some additional discussion regarding our analysis of the FADS as they apply to the specific facts of this case and a copy is attached if you wish to read it.

Regarding the attorney-client privilege issue, our "taint team" DPA (David Seaver) did conduct a review of the materials you provided to Detective Meyst and directly to the KCPAO. He concluded that un-waived attorney-client privilege issues would likely pose a significant impediment to the State using many of these documents at trial. A copy of his memorandum to me is also attached. Because I obviously don't know what any of these materials are or what information they contain, I cannot really answer any further questions about his review or conclusions. However, he is

willing to speak with you further about his analysis of that particular point if you wish. Having said that, I also must add that while the attorney-client privilege issue is obviously a significant one and certainly played a role in our analysis, we would have reached the same decision even absent that particular concern.

I also wanted to briefly address a few points that you raised in emails that are not necessarily discussed in the decline memo to SPD. First, I know that Judge Armstrong ruled in your favor in the arbitration on a number of key issues that overlap with the potential criminal charges and you indicated a presumption that she would testify to that. However, the findings that she made were under the civil burden of proof and were made in the course of a proceeding that operated with relaxed rules of evidence and without the procedural and constitutional safeguards that apply to a criminal prosecution. Her findings are not binding in any way in the criminal case. And, for a whole host of reasons, the rules of evidence and constitutional and procedural rules would almost certainly preclude Judge Armstrong from being able to testify as to her findings or the basis for them. Second, one of the major concerns that you raised is the damage that Mr. Pelley caused to your firm via copying/deleting electronic files. I read the materials you submitted re: 18 USC 1030. However, that is a federal statute and the KCPAO does not have the ability to prosecute violations of federal law. For State charging purposes, our analysis on those actions is essentially the same as in the attached decline memo. Our conclusion is that, unfortunately, the evidence is such that a jury is unlikely to convict Mr. Pelley of any state charges after hearing his most likely trial defense—that he did not have the criminal intent necessary for a crime because he acted with the belief he had legal authority to do what he did and/or that what happened was a mistake. So while I understand that Mr. Pelley's actions in this regard caused major issues for your firm, it is not something that we can file criminal charges for. Third, you raised the idea of prosecuting Mr. Pelley for perjury. Unfortunately, the crime of perjury is actually extraordinarily difficult to prove, both factually and legally, given the technical requirements of the statute and the caselaw interpreting it. The bulk of Mr. Pelley's statements that you identify as untrue were made in the course of the arbitration and the WSBA investigation. It is doubtful that either would constitute the sort of proceeding in which the making of a false statement would meet the legal requirements for perjury. And even if it did, the evidence does not meet the threshold required by the KCPAO's FADS. Fourth, you also mentioned a transaction involving the wire deposit of money into NWMJ's IOLTA account that was then withdrawn a week later via a cashier's check. You expressed concern that this transaction constituted money laundering. This transaction certainly seems questionable on the surface. However, without more, it is simply suspicious and there is insufficient evidence to establish a violation of the state Money Laundering statute to the level that would make this chargeable under KCPAO's FADS. Finally, you have mentioned that other people have raised concerns with you that Mr. Pelley is using illegal drugs, that he has scared or threatened others, and/or that he continues to engage in unethical and illegal financial transactions. However, unless and until such allegations are reported to law enforcement, investigated, and referred to us, we cannot file charges based on such second-hand information. Nor do these allegations impact our analysis of what has been referred to us. Our decision to decline is based purely on our likely inability to prove the charges. These additional allegations do not impact that analysis.

As noted above, we understand that you feel extremely victimized by Mr. Pelley and we are very sorry for the negative impacts this has had on you personally and professionally. We also understand that you are concerned that Mr. Pelley is continuing to commit similar acts in his ongoing practice. None of the above is an indication that we do not believe you, nor is it intended to defend or excuse any unlawful, unethical, or unsavory behavior by Mr. Pelley. Rather, it is an effort to be as frank and forthcoming with you as possible regarding the things we have considered in making this decision. Again, I know this is not the decision you were hoping for and I'm sorry for any disappointment.

Please let me know if you would like to retrieve any of the materials that you have submitted to KCPAO and we will make the arrangements for that to happen.

Sincerely,

Patrick

[Patrick Hinds](#)

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