

VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

IN THE MATTER OF
JONATHAN CHRISTIAN DAILEY

VS
VS B DOCKET NO. 20-000-118485

MEMORANDUM ORDER AND OPINION

THIS MATTER came before the Virginia State Bar Disciplinary Board (“Board”) for a hearing via video conference on October 23, 2020, on the Rule to Show Cause and Order of Summary Suspension and Notice of Hearing entered on September 24, 2020 (the “Rule to Show Cause”) to which was appended the Opinion and Order for Disbarment entered by the Maryland Court of Appeals dated March 18, 2020 disbarring Respondent Jonathan Christian Dailey (“Respondent”) from the practice of law in the State of Maryland.

The hearing was held before a panel of the Board consisting of Carolyn V. Grady, 1st Vice Chair; Devika E. Davis; John D. Whittington; Alexander N. Simon; and, Martha J. Goodman, Lay Member (collectively, the “Board Panel”). The Virginia State Bar (“Bar”) was represented by Edward J. Dillon, Jr., Senior Assistant Bar Counsel (“Senior Assistant Bar Counsel”). The Respondent appeared pro se, who filed a Response to Notice to Show Cause requesting a public reprimand for poor judgement with a prior client.

At the onset of the hearing, the Chair stated the following:

On March 12, 2020, the Governor of Virginia declared a state of emergency regarding the novel coronavirus (COVID-19) pursuant to Executive Order 51. The state of emergency has been in place since March 12, 2020 and continues indefinitely, until revised or lifted by the Governor. Therefore, because COVID-19 has rendered it unsafe for public bodies to assemble in person, the Virginia State Bar Disciplinary Board is meeting via teleconference, with access provided to the public to observe. In addition, the meeting will be recorded, will be available for viewing on the Virginia State Bar’s website, and it will otherwise comply with Virginia’s Freedom of Information Act regarding electronic meetings, found in the Virginia Code, Section 2.2-3708.2, as supplemented by Section 4-0.01.g of Virginia House Bill 29, Chapter 1283 (2020).

The court reporter, after having been duly sworn, reported the hearing and transcribed the proceeding.

The Chair polled the members of the Board Panel as to whether any of them was conscious of any personal or financial interest or bias which would preclude any of them from fairly hearing this matter and serving on the panel, to which inquiry each member responded in the negative. All legal notices of the date and place were timely sent by the Clerk of the Disciplinary System (“Clerk”) in the manner prescribed by Part 6, § IV, ¶ 13-12(C) of the *Rules of the Supreme Court of Virginia* (the “Rules”).

In accordance with Part 6, § IV, ¶ 13-24 of the *Rules*, the purpose of the hearing was to provide the Respondent with an opportunity to show cause, if any, as to why the same discipline that was imposed upon him by the Maryland Court of Appeals should not be imposed by the Board. The Board took Judicial Notice of the Rule to Show Cause, which included as an attachment the Order of Disbarment of the Maryland Court of Appeals, revoking Respondent’s license to practice law in the State of Maryland and received them into evidence. The Board received into evidence the Bar’s Exhibits 1-5 and the Respondent’s Exhibit 1, Exhibit 2 not being proffered.

The Respondent testified on his own behalf. That was his evidence and the Respondent rested his case. No witnesses were called by the Bar.

By Order dated March 18, 2020, the Maryland Court of Appeals disbarred Respondent from the practice of law in Maryland for violation of Maryland Lawyers’ Rules of Professional Conduct (“MLRPC”) 1.6(a) for failure to obtain a client’s consent before disclosing confidential client information and MLRPC 8.4(a), (c) and (d), which, as of July 1, 2016, became Maryland Attorneys’ Rules of Professional Conduct (“MARPC”) 19-308.4(a), (c) and (d) for violating or

attempting to violate the MLRPC/MARPC, engaging in conduct involving dishonesty, fraud, deceit or misrepresentation and engaging in conduct that is prejudicial to the administration of justice.

Paragraph 13-24 sets forth the four grounds under which the Board may decline to impose reciprocal discipline or may impose lesser discipline than that which was imposed by the original jurisdiction; one of the grounds must be shown by clear and convincing evidence to allow the Board to decline to impose reciprocal discipline:

1. The record of the proceedings in Maryland clearly shows that such proceedings were so lacking in notice or opportunity to be heard as to constitute a denial of due process;
2. The imposition by the Board of the same or equivalent discipline upon the same proof would result in an injustice;
3. The same conduct would not be grounds for disciplinary action or for the same or equivalent discipline in Virginia; or,
4. The misconduct found in the original Jurisdiction would warrant the imposition of substantially lesser discipline in Virginia.

The Board, having considered all of the evidence and the argument of counsel for the Respondent *pro se*, and the State Bar, recessed to deliberate and determine whether the Respondent had proven by clear and convincing evidence any of the four grounds set forth in Paragraph 13-24. After due deliberation, the Board reconvened and stated its finding that, by majority vote, the Respondent had failed to prove by clear and convincing evidence any of the four grounds set forth in Paragraph 13-24.

Accordingly, pursuant to Paragraph 13-24(H) of the *Rules*, it is ORDERED that the Respondent's license to practice law in the Commonwealth of Virginia is revoked as of October 23, 2020 and it is further ORDERED that Respondent shall comply with the requirements of Part Six, §IV, ¶13-29 of the *Rules*. The Respondent shall forthwith give notice by certified mail, return receipt requested, of the revocation of his license to practice law in the Commonwealth of Virginia to all clients for whom he is currently handling matters and to all opposing attorneys and presiding judges in pending litigation. The Respondent shall also make appropriate arrangements for the disposition of matters then in his care and conformity with the wishes of his clients. The Respondent shall give such notice within fourteen (14) days of the effective date of this order, and he shall make such arrangements as are required herein within forty-five (45) days of the effective date of the revocation. The Respondent shall also furnish proof to the Bar within sixty (60) days of the effective date of the revocation that such notices have been timely given and such arrangements made for the disposition of matters. And it is further ORDERED that the Clerk of the Disciplinary System shall mail an attested copy of this order to the Respondent at his address of record with the Virginia State Bar by certified mail, return receipt requested and by hand-delivery to Edward J. Dillon, Jr. Senior Assistant Bar Counsel, Virginia State Bar, 1111 East Main Street, Suite 700, Richmond Virginia, 23219-0026.

ENTERED this 5th day of November 2020

VIRGINIA STATE BAR DISCIPLINARY BOARD

Carolyn V. Grady, 1st Vice Chair