

**VIRGINIA:**

**BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD**

**IN THE MATTER OF  
MARLENE ALICE HARRIS**

**VSB DOCKET NO. 24-031-132480**

**AGREED DISPOSITION MEMORANDUM ORDER  
(NINE MONTH SUSPENSION)**

On May 2, 2025, this matter was heard, telephonically, by the Virginia State Bar Disciplinary Board upon the joint request of the parties for the Board to accept the Agreed Disposition signed by the parties and offered to the Board as provided by Part 6, Section IV, Paragraph 13-6.H of the Rules of the Supreme Court of Virginia. The panel consisted of Thomas R. Scott, Jr., Chair, Kamala H. Lannetti, Mary Beth Nash, Joseph D Platania, and Samuel Massenberg, Jr., Lay Member. The Virginia State Bar was represented by Renu M. Brennan, Bar Counsel. Marlene Alice Harris was present and was not represented by counsel. The Chair polled the members of the Board as to whether any of them were aware of any personal or financial interest or bias which would preclude any of them from fairly hearing the matter to which each member responded in the negative. Court Reporter, Beverly Horne, Chandler and Halasz, P.O. Box 9349, Richmond, Virginia 23227, telephone (804) 730-1222, after being duly sworn, reported the hearing and transcribed the proceedings.

**WHEREFORE**, upon consideration of the Agreed Disposition, the Certification, Respondent's Answer, Respondent's Disciplinary Record, the arguments of the parties, and after due deliberation,

It is **ORDERED** that the Disciplinary Board accepts the Agreed Disposition and the Respondent shall receive a Nine-Month Suspension, as set forth in the Agreed Disposition, which is attached and incorporated in this Memorandum Order.

It is further **ORDERED** that the sanction is effective June 21, 2025.

It is further **ORDERED** that the Respondent must comply with the requirements of Part 6, Section IV, Paragraph 13-29 of the Rules of the Supreme Court of Virginia. The Respondent shall forthwith give notice by certified mail of the Suspension of her license to practice law in the Commonwealth of Virginia, to all clients for whom she 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 her care in conformity with the wishes of her clients. The Respondent shall give such notice immediately and in no event later than 14 days of the effective date of the Suspension, and make such arrangements as are required herein as soon as is practicable and in no event later than 45 days of the effective date of the Suspension. The Respondent shall also furnish proof to the Clerk of the Disciplinary System of the Virginia State Bar within 60 days of the effective date of the Suspension that such notices have been timely given and such arrangements have been made for the disposition of matters.

It is further **ORDERED** that if the Respondent is not handling any client matters on the effective date of the Suspension, she shall submit an affidavit to that effect within 60 days of the effective date of the Suspension to the Clerk of the Disciplinary System at the Virginia State Bar. The Board shall decide all issues concerning the adequacy of the notice and arrangements required herein. The burden of proof shall be on the Respondent to show compliance. If the Respondent fails to show compliance, the Board may impose a sanction of Revocation or additional Suspension for failure to comply with the requirements of subparagraph 13-29.

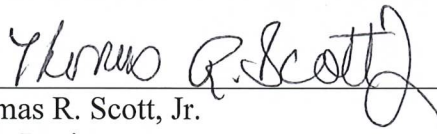
The Clerk of the Disciplinary System shall assess costs pursuant to Part 6, Section IV, Paragraph 13-9.E of the Rules.

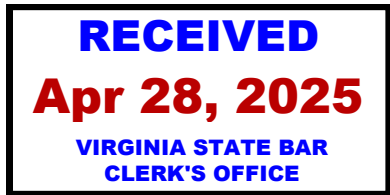
It is further **ORDERED** that an attested copy of this Order be mailed to the Respondent

by electronic, regular first-class and certified mail, return receipt requested, at her last address of record with the Virginia State Bar at P.O. Box 4279, Midlothian, VA 23112, and a copy by electronic mail to Renu M. Brennan, Bar Counsel.

Enter this Order this 6<sup>th</sup> day of May, 2025

VIRGINIA STATE BAR DISCIPLINARY BOARD

  
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Thomas R. Scott, Jr.  
Chair Designate



**VIRGINIA:**

**BEFORE THE DISCIPLINARY BOARD  
OF THE VIRGINIA STATE BAR**

**IN THE MATTER OF  
MARLENE ALICE HARRIS**

**VSB Docket No. 24-031-132480**

**AGREED DISPOSITION**  
**NINE MONTH SUSPENSION**

Pursuant to the Rules of the Supreme Court of Virginia, Part 6, Section IV, Paragraph 13-6.H, the Virginia State Bar, by Renu M. Brennan, Bar Counsel, and Marlene Alice Harris, Respondent, hereby enter into the following Agreed Disposition arising out of the referenced matter.

**I. STIPULATIONS OF FACT**

1. In 2002, Respondent was licensed to practice law. Respondent’s license was in good standing until June 21, 2024.
2. On October 23, 2023, the Circuit Court of Dinwiddie (“Court”) appointed Respondent to represent Anthony Jerome Nicholas in his criminal appeal. The procedural history is as follows:
  - By Trial Order entered August 4, 2021, the Court accepted Nicholas’s guilty plea and found Nicholas guilty of eluding police and endangerment and two counts of possession of a schedule 1/II drug with intent to distribute. The offense dates for all charges was September 7, 2018.
  - The Court continued the case to November 10, 2021 for sentencing.
  - By Sentencing Order entered January 26, 2022, the Court sentenced Nicholas to a total of 22 years of incarceration, 10 years for each count of possession with intent to distribute, to be served consecutively, and two years for eluding police, to run concurrently with the other sentences.
  - By Order entered February 2, 2022, the Court vacated the Sentencing Order and continued the case to schedule a hearing on a motion to rehear and withdraw Nicholas’s guilty plea.
  - By Sentencing Order entered October 13, 2023, the Court sentenced Nicholas to 15 years in jail, 40 years with 25 years suspended.

3. On October 23, 2023, Nicholas filed a notice of appeal *pro se*.
4. On November 22, 2023, Respondent filed an Amended Notice of Appeal on Nicholas's behalf.
5. By email to Respondent and other counsel, the Clerk's Office of the Court of Appeals notified Respondent and counsel that it had received the lower tribunal record on December 19, 2023 and provided a link to the record. The deadline to file the opening brief was January 29, 2024.
6. Respondent did not file the opening brief.
7. Respondent never communicated with Nicholas after being appointed to represent him.
8. Respondent told the Virginia State Bar investigator that she had mental health problems at the time she represented Nicholas.
9. By Order entered February 16, 2024, the Court of Appeals of Virginia dismissed Nicholas's appeal because Respondent did not file the opening brief.
10. Respondent did not take any steps to correct her failure to file the opening brief while the Court of Appeals retained jurisdiction over Nicholas's appeal.
11. Respondent did not file a motion for delayed appeal with the Court of Appeals of Virginia, pursuant to Va. Code § 19.2-321.1.<sup>1</sup> Va. Code § 19.2-321.1 permits the filing

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<sup>1</sup> § 19.2-321.1. Motion in the Court of Appeals for delayed appeal in criminal cases.

A. Filing and content of motion.

When, due to the error, neglect, or fault of counsel representing the appellant, or of the court reporter, or of the circuit court or an officer or employee thereof, an appeal, in whole or in part, in a criminal case has (i) never been initiated, (ii) been dismissed for failure to adhere to proper form, procedures, or time limits in the perfection of the appeal, (iii) been dismissed in part because at least one assignment of error did not adhere to proper form of procedures, or (iv) the conviction has been affirmed for failure to file or timely file the indispensable transcript or written statement of facts as required by law or by the Rules of Supreme Court, then a motion for leave to pursue a delayed appeal may be filed in the Court of Appeals within six months after the appeal has been dismissed, the conviction has been affirmed, or the circuit court judgment sought to be appealed has become final, whichever is later. Such motion shall identify the circuit court and the style, date, and circuit court record number of the judgment sought to be appealed, and, if one was assigned in a prior attempt to appeal the judgment, shall give the Court of Appeals record number in that proceeding, and shall set forth the specific facts establishing the said error, neglect, or fault. If the error, neglect, or fault is alleged to be that of an attorney representing the appellant, the motion shall be accompanied by the affidavit of the attorney whose error, neglect, or fault is alleged, verifying the specific facts alleged in the motion, and certifying that the appellant is not personally responsible, in whole or in part, for the error, neglect, or fault causing loss of the original opportunity for appeal.

- B. Service, response, and disposition. Such motion shall be served on the attorney for the Commonwealth and the Attorney General, in accordance with the Rules of Supreme Court. If the Commonwealth disputes the facts alleged in the motion, or contends that those facts do not entitle the appellant to a delayed appeal under this section, the motion shall be denied without prejudice to the appellant's right to seek a delayed appeal by means of petition for a writ of habeas corpus. Otherwise, the Court of Appeals shall, if the

of a delayed appeal for criminal cases that have been dismissed for failure to adhere to time limits in the perfection of an appeal.

12. Respondent did not notify Nicholas of the dismissal of Nicholas's appeal, the reason his appeal was dismissed, or of Nicholas's option of filing a motion for delayed appeal. Respondent did not advise Nicholas of any other options including the possible right to a petition for writ of *habeas corpus*, the deadline, and how and where to file the petition for writ of *habeas corpus*.

## II. NATURE OF MISCONDUCT

Such conduct by Respondent constitutes misconduct in violation of the following provisions of the Rules of Professional Conduct:

### RULE 1.1 Competence

A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

### RULE 1.3 Diligence

(a) A lawyer shall act with reasonable diligence and promptness in representing a client.

(b) A lawyer shall not intentionally fail to carry out a contract of employment entered into with a client for professional services, but may withdraw as permitted under Rule 1.16.

*By failing to take any action to pursue her client's objectives including by failing to:*

- (1) timely file an opening brief for Nicholas,*
- (2) take any steps to correct her failure to timely file the opening brief while the Court of Appeals of Virginia retained jurisdiction over Nicholas's appeal, and*
- (3) file a motion for delayed appeal on Nicholas's behalf,*

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motion meets the requirements of this section, grant appellant leave to initiate or re-initiate pursuit of the appeal.

- C. Time limits when motion granted. If the motion is granted, all computations of time under the Rules of Supreme Court shall run from the date of the order of the Court of Appeals granting the motion, or if the appellant has been determined to be indigent, from the date of the order by the circuit court appointing counsel to represent the appellant in the delayed appeal, whichever is later.
- D. Applicability. The provisions of this section shall not apply to cases in which the appellant is responsible, in whole or in part, for the error, neglect, or fault causing loss of the original opportunity for appeal, nor shall it apply in cases where the claim of error, neglect, or fault has already been alleged and rejected in a prior judicial proceeding.

*Respondent violated Rules 1.1, 1.3(a), and 1.3(b).*

**RULE 1.4 Communication**

(a) A lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.

(b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

*By failing to communicate with Nicholas at all regarding his appeal including failing to tell Nicholas:*

- (1) that his appeal was dismissed,*
- (2) the reason his appeal was dismissed, and*
- (3) his options after his appeal was dismissed, including the possibility of a motion for delayed appeal or petition for writ of habeas corpus,*

*Respondent violated Rule 1.4(a) and (b).*

**RULE 1.16 Declining Or Terminating Representation**

(a) Except as stated in paragraph (c), a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if:

- (2) the lawyer's physical or mental condition materially impairs the lawyer's ability to represent the client[.]

*By accepting the appointment to represent Nicholas in his appeal and by failing to withdraw as counsel for Nicholas when she was unable to represent Nicholas, failing to take any action or communicate with him, and preventing the Court from appointing other counsel to represent Nicholas, Respondent violated Rule 1.16(a)(2).*


**III. PROPOSED DISPOSITION**

Accordingly, Bar Counsel and Respondent tender to the Disciplinary Board for its approval the agreed disposition of nine-month suspension as representing an appropriate sanction if this matter were to be heard through an evidentiary hearing by a panel of the Disciplinary

Board. Bar Counsel and Respondent agree that the effective date for the sanction shall be June 21, 2025, the date that Respondent's current one-year suspension ends.

If the Agreed Disposition is approved, the Clerk of the Disciplinary System shall assess costs pursuant to ¶ 13-9.E of the Rules.

THE VIRGINIA STATE BAR

By:   
Renu M. Brennan  
Bar Counsel

  
Marlene Alice Harris  
Respondent