

VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

IN THE MATTER OF
VAUGHAN CHRISTOPHER JONES

VSb DOCKET NO. 24-032-130763

MEMORANDUM ORDER OF SUSPENSION

THIS MATTER came on to be heard January 24, 2025, before a panel of the Disciplinary Board (the “Board”) consisting of Yvonne S. Gibney, Chair Designate (“Chair”); Melanie A. Friend; Joseph D. Platania; Reiss F. Wilks; and Dr. Theodore Smith, Lay member. The Chair polled the members of the Board Panel as to whether any of them had any personal or financial interest that may affect, or may be reasonably perceived to affect, their ability to be impartial, to which inquiry each member responded in the negative.

Renu M. Brennan, Bar Counsel, represented the Virginia State Bar (the “VSB”). Respondent Vaughan Christopher Vaughan Jones (the “Respondent”) appeared in person and was represented by Craig S. Cooley.

Beverly S. Horne, court reporter, Chandler and Halasz, Inc., P.O. Box 1975, Mechanicsville, Virginia 23116, (804) 730-1222, after being duly sworn, reported the hearing and transcribed the proceedings.

The Clerk of the Disciplinary System (“Clerk”) timely sent all legal notices of the date and place in the manner prescribed by Part Six, Section IV, Paragraph 13-18 of the Rules of the Supreme Court of Virginia (“Rules”).

The matter came before the Board on the Subcommittee Determination (“Certification”) of the Third District, Section II Subcommittee, pursuant to Part 6, Section IV, Paragraph 13-18 of the Rules involving misconduct charges against the Respondent.

Prior to the hearing at the final Prehearing Conference VSB Exhibits 1 through 21 were admitted into evidence by the Chair, without objection from the Respondent. The VSB timely filed objections to Respondent's Exhibits 1 through 5. Because Respondent's proposed exhibits were intended to be introduced during the sanction phase of the hearing, the Chair deferred ruling on the admissibility of Respondent's exhibits until the hearing.

The Board heard testimony from the following witnesses, who were sworn under oath: Delmonte George Lewis, who testified remotely from Wallens Ridge State Prison; Shay Lewis, Bryanna Fitzgerald, Brent A. Jackson, R. Christopher Jones, and Respondent. The Board considered the exhibits introduced by the parties; heard arguments of counsel; and met in private to consider its decision.

I. FINDINGS OF FACT

Based on clear and convincing evidence, relying on the stipulations of the parties, the Board makes the following findings of fact:

1. Respondent was licensed to practice law in Virginia in 1997. At all relevant times, Respondent has been a member of the VSB.
2. The Circuit Court for the City of Richmond ("Court") appointed Respondent to represent Delmonte George Lewis ("Lewis") on charges of first-degree murder; use of a firearm in the commission of a felony (2 charges), malicious wounding, and shooting into an occupied building.
3. By order entered February 21, 2023, a jury convicted Lewis on all charges. The court denied Respondent's motion to set aside the verdict.
4. By order entered March 30, 2023, Lewis was sentenced to 73 years in prison, 25 of which were suspended with conditions.

5. Respondent advised Lewis he would note an appeal on his behalf.
6. On April 20, 2023, Respondent filed a notice of appeal from the Court's judgment of conviction with the Court of Appeals of Virginia ("CAV") on Lewis's behalf.
7. In April 2023, Respondent met with Lewis and advised him that he had filed the notice of appeal. Respondent did not communicate further with Lewis after that meeting.
8. On June 12, 2023, Respondent timely filed a motion to extend time to file the transcript with the CAV.
9. On June 14, 2023, the CAV granted Respondent's motion and extended the deadline for filing the transcript to July 17, 2023.
10. Respondent did not receive or file the transcript by July 17, 2023.
11. Respondent did not file a second motion for an extension at that time.
12. By email dated July 19, 2023, the CAV notified Respondent that the Clerk's Office of the CAV received the Court's record of the proceedings that day, July 19, 2023, and informed Respondent that his opening brief was due no later than 40 days after the Clerk's receipt of the record.
13. On August 7, 2023, Respondent filed assignments of error with the CAV.
14. By email dated August 23, 2023, Respondent's paralegal asked the assistant attorney general representing the Commonwealth of Virginia in the appeal whether he would object to a second extension of time to file the transcript, which Respondent still had not received from the court reporter. The assistant attorney general indicated he had no objection.
15. On August 24, 2023, Respondent filed a second motion to extend the time for filing the transcript with the CAV.
16. By order entered August 25, 2023, the CAV denied Respondent's motion to extend the

- time to file the transcript.
17. Respondent failed to file an opening brief by the August 28, 2023, deadline.
 18. On September 19, 2023, the CAV entered an order dismissing the appeal for failure to timely file the opening brief by the August 28, 2023, deadline.
 19. The CAV emailed the dismissal order to Respondent on September 19, 2023. The first paragraph of the email included the following statement: “Counsel may want to consider filing a motion for a delayed appeal pursuant to Virginia Code § 19.2-321.1.”
 20. Respondent did not notify Lewis of the appeal’s dismissal, the reason for its dismissal, the options to file a motion for delayed appeal or petition for writ of habeas corpus, or of the deadlines by which to do so.
 21. Respondent did not file a motion for a delayed appeal or a petition for writ of habeas corpus.
 22. Respondent did not communicate further with Lewis in any way.
 23. The CAV reported to the VSB the dismissal of Lewis’s appeal because of the missed deadline.
 24. Lewis learned about the dismissal of his appeal from the VSB investigator during his interview on August 29, 2024, nearly a year after Respondent received notification of its dismissal.

II. NATURE OF MISCONDUCT

The following conduct by Respondent constitutes misconduct in violation of the following 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.

By failing to (1) timely file a second motion to extend the time for filing the trial transcript; (2) timely file an opening brief; and (3) file a motion for a delayed appeal or petition for writ of habeas corpus, Respondent violated Rule 1.1.

Rule 1.3 Diligence

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

By failing to (1) timely file a second motion to extend the time for filing the trial transcript; (2) timely file an opening brief; (3) failing to file a motion for a delayed appeal or petition for writ of habeas corpus; and (4) failing to explain to Lewis his options for filing a delayed appeal or petition for a writ of habeas corpus, Respondent violated Rule 1.3(a).

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 (1) communicate to Lewis about the status of his appeal while pending; (2) communicate to Lewis that the CAV dismissed the appeal; (3) communicate to Lewis the reason for the appeal's dismissal; and (4) advise Lewis of his remaining options, after his appeal was

dismissed, for filing a delayed appeal or petition for a writ of habeas corpus, Respondent violated Rule 1.3(a) and (b).

III. SANCTION

Thereafter, the Board received further evidence and argument as to the appropriate sanction to be imposed, including aggravating and mitigating factors.

The Board received and admitted Respondent's disciplinary record (VSB Exhibit 22), which reflects that Respondent has received discipline for ten prior incidents of misconduct that occurred between 1999 and 2020. Respondent's sanctions have included a private admonition, a private reprimand with terms, public reprimands with and without terms, and a sixty-day suspension with terms. Seven of the prior incidents of misconduct involved violations of the Rules governing competence or diligence. Most significantly, Respondent has been disciplined twice for failing to properly handle his clients' appeals. He received a public reprimand with terms in 2009 for failing to perfect a criminal defendant's appeal and then failing to file a motion for a delayed appeal. Respondent also received a sixty-day suspension with terms in 2012 for failing to file a petition for appeal, after having filed a notice of appeal, and for failing to notify his client.

Terms that were imposed on Respondent as part of the discipline listed above included the following, in addition to other terms:

1. Attend 8 hours of Continuing Legal Education (CLE) in the area of legal ethics or professionalism (March 21, 2001);
2. Engage a VSB-approved mentor "to review and make written recommendations about Respondent's law office management practices and procedures to aid Respondent's future compliance with the Rules of Professional Conduct," to institute measures the mentor identifies where the mentor finds deficiencies, and to grant the mentor access afterward to determine whether

Respondent has instituted the measures; and attend 10 hours of CLE in the area of law office management and ethics every year for three years (June 3, 2010); and

3. Attend 12 hours of CLE on the subject of criminal practice and procedure (October 8, 2014).

The Board received testimony from Respondent's former client and family members who addressed the impact of Respondent's misconduct.

Respondent's former client, Delmonte George Lewis, is serving a 73-year sentence, with 25 of those years suspended with conditions. He wanted to appeal his convictions, asked Respondent to do so in April 2023, and believed Respondent was handling the appeal. Lewis had no communication from Respondent after requesting Respondent to appeal his conviction in April 2023. Lewis has attempted to call Respondent about once a month since April 2023, only to be told Respondent was unavailable. Respondent enlisted his mother, Shay Lewis, and god-sister, Bryanna Fitzgerald, to contact Respondent, but they were similarly unsuccessful. Because Respondent never accepted or returned his calls or otherwise communicated with him, Lewis learned from the VSB investigator on August 29, 2024 – nearly a year after Respondent received notice of the dismissed appeal – that the CAV had dismissed his appeal.

Lewis has no legal representation at present, and there is no pending motion for a delayed appeal or petition for writ of habeas corpus. Lewis has not received an affidavit of fault from Respondent for the purpose of filing a motion for a delayed appeal.

Lewis's mental health has suffered greatly because of the dismissal of his appeal. The day he learned that his appeal had been dismissed, Lewis wrote to his mother, "I'm so stressed tf [sic] out and on the verge of giving up." (VSB Ex. 23)

Lewis's mother, Shay Lewis, attempted to communicate with Respondent on her son's behalf. Her attempts included repeated phone calls to Respondent's office, emails, and calls and texts to Respondent's cell phone. Respondent never called her back or replied to her emails or text messages. Her last communication from Respondent was at the conclusion of her son's trial. Ms. Lewis has attempted to retain a new attorney to represent her son on appeal but has faced financial barriers. Ms. Lewis has grave concern for her son's physical and mental well-being, as he suffers from depression and has been stabbed in prison.

Bryanna Fitzgerald, Lewis's friend and god-sister, attempted to call Respondent on his cell and office numbers at least five times. On perhaps two of those occasions, Ms. Fitzgerald had Lewis on the line as well to attempt a conference call. Respondent never returned Ms. Fitzgerald's voicemail messages.

Respondent's mitigation evidence include letters of support from Brent A. Jackson, Chief Legal Officer for Virginia Union University (Respondent Ex. 1), and Shannon L. Taylor, Commonwealth's Attorney for Henrico County (Respondent Ex. 5), as well as completed certification of attendance forms relating to 8 hours of CLE Respondent attended in December 2024 that were specific to appellate practice. (Respondent Ex. 2-4). The exhibits were admitted over objection by the VSB.

The Board also received testimony from Respondent and two attorneys, one who has worked with Respondent to address Respondent's law practice management challenges, and one who vouched for Respondent's skills as a trial lawyer.

Attorney Brent Jackson has been providing guidance to Respondent in law practice management for about three years. He meets at least once a week with Respondent to discuss Respondent's cases, a practice they began about a year ago. To assist Respondent in managing his

law practice, Mr. Jackson has also assigned a few of his own law office employees to work with Respondent.

Mr. Jackson is aware of Respondent's lengthy disciplinary record and acknowledged that he himself has a disciplinary history with the VSB. Mr. Jackson noted, however, that those experiences taught him the things he needs to attend to. Mr. Jackson suggested that "the key is what a lawyer does once sanctioned."

Even though Mr. Jackson has been working with Respondent on improving his law practice management for three years, he concedes that Respondent did not tell him that Respondent had missed the deadlines in Lewis's appeal, and that Lewis's appeal had been dismissed as a result, until Respondent received the bar complaint in December 2023.

Attorney R. Christopher Jones has known Respondent since 2003 and holds him in high esteem as one of the most gifted litigators he has known. He believes that Respondent genuinely cares about his clients. Mr. Jones also believes that one has to maintain a high volume of cases to keep a criminal defense practice afloat, which is challenging and stressful.

The Board also heard testimony from the Respondent.

Respondent has acknowledged his misconduct and the Rule violations at issue in this case and admitted his responsibility at the outset when he received notice of the bar complaint.

With respect to his 27-year practice blemished by more than ten bar complaints and encounters with the disciplinary system, Respondent admits, "I always thought I was doing things the right way," and "I didn't accept any indication that I wasn't doing everything the right way."

Since receiving this bar complaint, however, Respondent contends he has made changes to his law practice. He has reduced the number of new clients he accepts to reduce his caseload; he has implemented a different work structure in his law practice that includes assistance from Mr.

Jackson's employees; and he has accepted a position as a part-time assistant commonwealth's attorney in Lancaster County. Respondent believes these changes have helped him manage his schedule more efficiently and with more attention to detail.

Respondent claims to be remorseful¹ for failing to communicate with Mr. Lewis, but he could provide the Board with "no good explanation for" why he has never contacted Mr. Lewis and for why he has never done anything to help Mr. Lewis file a delayed appeal request.

IV. DISPOSITION

After considering the exhibits, testimony, and arguments of counsel, the Board was guided by Standard 4.42 of the Annotated Standards for Imposing Lawyer Sanctions, 2nd Edition (ABA 2019), which provides that "suspension is generally appropriate when: (a) a lawyer knowingly fails to perform services for a client and causes injury or potential injury to a client; or (b) a lawyer engages in a pattern of neglect and causes injury or potential injury to a client." Here, Respondent knew he failed to perform the services for Mr. Lewis that were necessary for his appeal and Respondent's failure to do so resulted in the loss of Mr. Lewis's right to appeal his conviction. In addition, Respondent's misconduct in this case is a repeat of misconduct for which he has previously been sanctioned.

The Board considered as mitigating factors (1) that Respondent fully and freely cooperated with the VSB's investigation; and (2) Respondent's lack of selfish or dishonest motivation.

¹ Respondent described his feelings of remorse this way:

As I said a few minutes ago, I have made a number of mistakes in my practice of law. And I express remorse for each and every one of them. And that is separate from what I may or should have done. I am remorseful for what I didn't do. I am remorseful for not communicating with Mr. Lewis. I am clearly remorseful for not effectuating every aspect of every avenue he had in effectuating his right to appeal. I have remorse for those things. I acknowledge in front of you and everyone sitting in this room that I did not do those things. I have not ever disputed that.

Hearing Tr. (Testimony of Vaughan Christopher Jones) at 28:19-25 and 29:1-6.

Although Respondent acknowledged his conduct violates the Rules and he claims to be remorseful for his misconduct, Respondent has taken no curative action on Lewis's behalf and could not articulate why he has not. Accordingly, the Board did not consider Respondent's remorse to be a mitigating factor.

The Board considered as aggravating factors the following:

(1) Respondent's prior disciplinary offenses. Unlike Mr. Jackson, who saw his own experience with discipline as identifying issues he needed to address, Respondent appears to have learned nothing from his prior discipline. The misconduct at issue in this case is nearly identical to misconduct for which Respondent has been sanctioned previously. Respondent's prior discipline required him to attend a total of 50 hours of CLE and engage a mentor to assess and improve Respondent's law practice management – the same remedial measures Respondent touts to the Board in this case as evidence that he has changed the way he practices.

(2) Respondent's pattern of misconduct. Rule violations pertaining to competence and diligence at issue in this case are recurring themes in Respondent's disciplinary record. He was found to have violated them in 2001, 2009, 2010, 2012, 2013, 2014, and 2020.

(3) Respondent's multiple offenses in this case. In this case alone Respondent violated Rules 1.1, 1.3(a), 1.4(a), and 1.4(b).

(4) The vulnerability of Respondent's client, Mr. Lewis. Mr. Lewis is incarcerated and has been denied his appeal rights because of Respondent's misconduct.

(5) Respondent's substantial experience in practicing law. After 27 years of practicing law, in which he has been repeatedly admonished and received sanctions for his misconduct, Respondent should not be engaging in the same behavior over and over again.

After due deliberation, the Board reconvened to announce the sanction imposed.

The Chair announced the sanction as follows:

It is ORDERED that Respondent's license to practice law in the Commonwealth of Virginia be SUSPENDED for a period of ONE YEAR AND ONE DAY.

It is further ORDERED that the suspension shall go into effect March 1, 2025.

It is further ORDERED that Respondent shall not take on new clients between the date of the hearing, January 24, 2025, and March 1, 2025.

It is further ORDERED that Respondent must comply with the requirements of Part 6, Section IV, Paragraph 13-29 of the Rules. The Respondent shall forthwith give notice by certified mail, of the suspension of his license to practice law in the Commonwealth of Virginia, to all clients he currently represents 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 in conformity with the wishes of his client. The Respondent shall also furnish proof to the Clerk 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 pursuant to Part 6, Section IV, Paragraph 13-9.E of the Rules, the Clerk shall assess all costs against the Respondent.

It is further ORDERED that an attested copy of this Order be mailed by the Clerk to the Respondent by electronic, first-class and certified mail, return receipt requested, to his address of

record with the Virginia State Bar, being 1622 W. Main St., Richmond, Virginia 23220, and a copy by electronic mail to Craig S. Cooley, Respondent's Counsel, and to Renu M. Brennan, Bar Counsel.

ENTERED this 5th day of February 2025.

VIRGINIA STATE BAR DISCIPLINARY BOARD

Yvonne S. Gibney, Chair Designate