

VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

IN THE MATTER OF  
MATTHEW TAYLOR MORRIS

VSB DOCKET NOS.  
22-021-125306; 22-022-125347  
22-021-125400

**MEMORANDUM ORDER OF PUBLIC REPRIMAND WITH TERMS**

A panel of the Virginia State Bar Disciplinary Board (the “Board”) heard this matter on December 16, 2022. The panel consisted of Carolyn V. Grady, Chair Designate; Yvonne S. Gibney; Donita M. King; John D. Whittington; and Tammy D. Stephenson, Lay Member. The Chair Designate polled the members of the 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.

Seth T. Shelley, Assistant Bar Counsel, represented the Virginia State Bar (the “VSB”). The Respondent, Matthew Taylor Morris (“Respondent”) appeared in person and represented himself.

The court reporter, Jennifer L. Hairfield, Chandler & Halasz, Inc.; P.O. Box 9349, Richmond, Virginia 23227; (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 the Rules of the Supreme Court of Virginia (the “Rules”), Part Six, Section IV, Paragraph 13-18.

These matters came before the Board on the Subcommittee Determinations (Certifications) by Second District Subcommittee Sections I and II, pursuant to Part 6, Section IV, Paragraph 13-18 of the Rules of the Supreme Court of Virginia involving misconduct charges against the

Respondent. Prior to the proceeding at the Prehearing Conference the Chair Designate admitted the following exhibits without objection from the Respondent:

VS B Docket No. 22-021-125306: VS B Exhibits 1- 21;

VS B Docket No. 22-022-125347: VS B Exhibits 1-13; and

VS B Docket No. 22-021-125400: VS B Exhibits 1-11.

Respondent did not file any exhibits prior to the proceeding and did not seek the admission of any exhibits during the proceeding. The Respondent moved in character letters in the sanction phase.

The parties also entered into Stipulations prior to the proceeding, which the Board admitted as Board Exhibit 1.

The Board heard testimony from the following witnesses, who were sworn under oath: the Respondent; Elizabeth C. Counts, Assistant Commonwealth's Attorney for the City of Virginia Beach (by Video Conferencing), Captain John Vargas, Virginia Beach Sheriff's Office (by Video Conferencing), and John E. Pucky, VS B Investigator.

At the conclusion of the Bar's case, Respondent moved to strike the violations of Rule 8.2 alleged in VS B Docket No. 22-021-125306, the violations of Rules 1.4(a) and (b), 1.16(d), and 3.4(d) alleged in VS B Docket No. 22-022-125347, and violation of Rule 8.4 alleged in VS B Docket No. 22-021-125400. Following argument of the parties the Board took the motions to strike under advisement.

The Board considered the exhibits, witness testimony, and arguments of the parties as to the allegations of misconduct and met in private to consider its decision.

## **I. FINDINGS OF FACT**

The Board made the following findings of fact by clear and convincing evidence:

1. Respondent was admitted to the Virginia State Bar in 2012. At all relevant times, Respondent was a member of the VS B.

2. In or about the fall of 2019, Jordan Brown (“Brown”) retained Respondent to represent him on criminal matters in the Virginia Beach Juvenile and Domestic Relations District Court. The charges were later certified to Circuit Court.

3. In October 2021, emails between Respondent and Assistant Commonwealth’s Attorney Elizabeth Counts indicate that Respondent initiated plea negotiations. Ms. Counts offered a proposed sentence of 180 days to serve on two counts of misdemeanor assault and battery on a family member. Respondent requested that Ms. Counts agree that Brown could serve the sentence through the jail’s weekend program. Ms. Counts emailed Respondent and stated she did not believe the weekend program was available if the active sentence was greater than 45 days; her email cited Va. Code § 53.1-131.1.

4. On November 8, 2021, Brown appeared before the Honorable Judge Stephen C. Mahan (“Judge Mahan”) in Virginia Beach Circuit Court with Respondent. Brown pleaded guilty to two counts of misdemeanor assault and battery of a family member pursuant to a plea agreement. The plea agreement called for Brown to be sentenced to an active sentence of 180 days, 90 days on each count. The Commonwealth did not object to delaying imposition of sentence until January 2022. The plea agreement did not include a term that would allow the sentence to be served through the jail’s weekend program. In requesting that Judge Mahan delay imposition of sentence, Respondent stated that Brown wished to “come back [in January] and request to serve his sentence on weekends” if the jail resumed its weekend program.

5. At Brown’s sentencing hearing, Respondent requested that Judge Mahan permit Brown to serve his active jail sentence on weekends. Ms. Counts objected and, among other things, cited Va. Code § 53.1-131.1. Brown then indicated he wished to withdraw his guilty plea because he was statutorily prohibited from serving weekends based upon the amount of jail time he agreed to serve as part of the plea agreement. Judge Mahan continued the matter to March 8, 2022, for a motions hearing.

6. On March 8, 2022, Respondent did not appear at the 9:30 A.M. hearing. Respondent arrived for court at approximately 1 p.m. after Ms. Counts was able to reach him by telephone. Respondent requested to withdraw from representing Brown and expressed concerns about becoming a possible witness in Brown’s motion to withdraw his guilty plea. Respondent admitted that he “was unaware of that exact code section [53.1-131.1]” and “did not inform Mr. Brown about this statute.” Respondent stated that the reason Brown wished to withdraw his guilty plea was “not his fault ...[i]t’s my fault ... because I didn’t inform him as an attorney of this statute.” Judge Mahan granted the motion to withdraw because Respondent was “unaware of pertinent statutes and law” and failed to inform Brown of that law prior to Brown’s guilty plea.

7. After concluding the hearing regarding the Brown matter, Judge Mahan questioned Respondent about his tardiness. Respondent admitted that he missed court because he slept through his alarm and stated “[t]his is not the first time this has happened.” Respondent expressed concern that he may have “a medical issue” or that he is “just bordering on being unfit to be an attorney.”

8. Judge Mahan suspended Respondent from appearing in any criminal matter in Virginia Beach Circuit Court, noting Respondent's "concern about your fitness or capacity for practicing law" and the admission that Respondent was "unaware of pertinent statutes" regarding Brown's criminal matter and his consideration of a plea agreement. Judge Mahan noted the suspension would remain until Respondent provided "evidence that is satisfactory to the court of your fitness to return to the practice of criminal law in this court." Judge Mahan instructed Respondent to notify any clients with pending criminal matters in Virginia Beach Circuit Court of the suspension.

9. Respondent contacted at least two clients after the suspension: Richard Stoner ("Stoner") and Benjamin Vincent ("Vincent"). Stoner and Vincent received the same typed letter from Respondent dated March 15, 2022. In that letter, Respondent stated that he was "suspended from the practice of criminal law in the Virginia Beach Circuit Court by the Honorable Judge Mahan." Respondent wrote that the "tricks used by Commonwealth's Attorneys and Law Enforcement Officers are dirtier than ever" and he has attempted to "expose these tricks" in court. Respondent stated that "[t]he remedy chosen by Judge Mahan to punish me was swift and harsh and done to prevent me from exposing the web of corruption that runs rampant in our police force, commonwealth attorney's office, and Courts."

10. In June 2022, Investigator Pucky attempted repeatedly and unsuccessfully to interview Respondent on multiple occasions. In early June, Investigator Pucky called and emailed Respondent. When those efforts failed, Investigator Pucky visited Respondent's home and left his business card. Respondent later emailed Investigator Pucky and told him not to come to his house. Respondent then stated he was available for a phone interview on June 10 but failed to answer when Investigator Pucky called that day. Respondent texted Investigator Pucky later that day and asked to re-schedule the interview for the following week. However, Respondent did not re-schedule the interview. On June 20, 2022, Respondent sent Investigator Pucky an email indicating, he "could care less about this investigation," previously provided a written response, and "ha[d] nothing else to say." (See VSB #-0023 and 21)

VSB Docket No. 22-021-125347

11. In or about May of 2020, Adrian Lane ("Complainant") and his mother retained Respondent to represent Complainant on criminal matters pending before the Virginia Beach Circuit Court. Respondent charged a fixed fee of \$5,000. There was no written fee agreement.

12. On March 8, 2022, Respondent failed to appear at a scheduled morning hearing on another criminal matter in Virginia Beach Circuit Court. At approximately 1 p.m., Respondent appeared before Judge Mahan. Judge Mahan asked Respondent why he failed to appear at the morning hearing. Respondent stated he slept through his alarm and that this was not the first time that had occurred. Respondent told Judge Mahan that he did not know if he had "a medical issue" or if he was "just bordering on being unfit to be an attorney."

13. Based on information provided by Respondent, Judge Mahan informed Respondent that he would "enter an order ... that prohibits your practice in this court" in all criminal matters. Judge Mahan instructed Respondent to inform his clients with pending criminal matters in Virginia

Beach Circuit Court that Respondent could no longer represent them. Respondent agreed to do so.

14. By order entered March 10, 2022, the Virginia Beach Circuit Court suspended Respondent from appearing in any criminal matter pending before that Court (the “Suspension Order”). The Suspension Order also directed Respondent to “immediately advise all of his clients who have criminal matters pending in the Circuit Court of the City of Virginia Beach of this suspension.” Furthermore, Judge Mahan ordered Respondent to “undertake all appropriate steps for the orderly transfer of those matters to alternate counsel.”

15. Respondent attempted to notify the Complainant of the Suspension Order, but because Respondent was prohibited from entering the jail where Complainant was confined, he was unable to notify the Complainant before his next appearance before the Virginia Beach Circuit Court on March 14, 2022. In accordance with the Suspension Order Respondent did not appear at the hearing. At that hearing, the judge informed Complainant that Respondent could no longer represent him and appointed the Office of the Public Defender to represent Complainant. According to Complainant, the judge provided a copy of the Suspension Order.

16. In his written response to the bar complaint dated April 26, 2022, Respondent stated that he charged Complainant \$5,000 but “put more than \$7,500-\$10,000 worth of time into [the case].” Respondent asserted he “spent countless hours preparing Mr. Lane’s matter over the course of several years,” but did not provide a log of legal services provided or describe in detail what steps he took to prepare the case.

17. Respondent also stated that a plea agreement had been reached and that the March 14 hearing was set for Complainant to enter a guilty plea. Complainant confirmed that Respondent had discussed a plea agreement with him.

18. Complainant’s criminal case is currently set for a jury trial on January 10, 2023.

19. Respondent has not returned any of the \$5,000 fixed fee to Complainant.

20. In June 2022, Investigator Pucky attempted repeatedly and unsuccessfully to interview Respondent on multiple occasions. In early June, Investigator Pucky called and emailed Respondent. When those efforts failed, Investigator Pucky visited Respondent's home and left his business card. Respondent later emailed Investigator Pucky and told him not to come to his house. Respondent then stated he was available for a phone interview on June 10 but failed to answer when Investigator Pucky called that day. Respondent texted Investigator Pucky later that day and asked to re-schedule the interview for the following week. However, Respondent did not re-schedule the interview. On June 20, 2022, Respondent sent Investigator Pucky an email indicating, he “could care less about this investigation,” previously provided a written response, and “ha[d] nothing else to say.”

VSB Docket No. 22-21-125400:

21. On February 22, 2022, Respondent entered the Virginia Beach Courthouse and was found in possession of a firearm by security personnel.

22. On March 8, 2022, Respondent again entered the Virginia Beach Courthouse and was found in possession of a firearm by security personnel. There have been no incidents, other than the February 22 and March 8 incidents, in which the Respondent has brought a firearm to the courthouse.

23. During a show cause hearing on March 22, 2022, before the Honorable Judge Lesley Lilley (“Judge Lilley”), Respondent admitted that he entered the courthouse on February 22 and March 8 with a firearm in his briefcase but did so mistakenly. At the conclusion of the hearing, Judge Lilly found Respondent in civil contempt for violating the court’s security orders.

24. Respondent violated the court’s security orders by bringing a firearm into the courthouse. Respondent admitted this fact at the hearing.

25. In June 2022, VSB Investigator Pucky attempted repeatedly and unsuccessfully to interview Respondent on multiple occasions. In early June, Investigator Pucky called and emailed Respondent. When those efforts failed, Investigator Pucky visited Respondent's home and left his business card. Respondent later emailed Investigator Pucky and told him not to come to his house. Respondent then stated he was available for a phone interview on June 10, 2022 but failed to answer when Investigator Pucky called that day. Respondent texted Investigator Pucky later that day and asked to re-schedule the interview for the following week. However, Respondent did not re-schedule the interview. On June 20, 2022, Respondent sent Investigator Pucky an email indicating that he “could care less about this investigation,” that he had previously provided a written response, and that he “ha[d] nothing else to say.”

26. During the time that Respondent received the Suspension Order from Judge Mahan, brought a firearm to the courthouse, and avoided Investigator Pucky’s efforts to investigate the bar complaints Respondent was experiencing significant personal problems at home.

## **II. NATURE OF MISCONDUCT**

The Board finds the conduct of Respondent set forth above constitutes misconduct in violation of the following provisions of the Rules of Professional Conduct:

VSB Docket No. 22-021-125306:

The Respondent stipulated to the following violations 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 1.4 Communication***

\* \* \*

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

***RULE 8.1 Bar Admission and Disciplinary Matters***

*An applicant for admission to the bar, or a lawyer already admitted to the bar, in connection with a bar admission application, any certification required to be filed as a condition of maintaining or renewing a License to practice law, or in connection with a disciplinary matter, shall not:*

\* \* \*

*(c) fail to respond to a lawful demand for information from an admission or disciplinary authority, except that this Rule does not require disclosure of information otherwise protected by Rule 1.6; or*

*(d) obstruct a lawful investigation by an admissions or disciplinary authority.*

In addition, the Board finds that by attacking the integrity of Judge Mahan in two letters to his clients and by claiming that his suspension from Virginia Beach Circuit Court was the result of an attempt to silence Respondent from exposing corruption in the local legal system, Respondent violated the following Rule of Professional Conduct:

***RULE 8.2 Judicial Officials***

*A lawyer shall not make a statement that the lawyer knows to be false or with reckless disregard as to its truth or falsity concerning the qualifications or integrity of a judge or other judicial officer.*

The Board further finds that by failing to submit to an interview with the VSB investigator and otherwise failing to cooperate with the VSB's investigation of the bar complaints Respondent violated the following Rule of Professional Conduct:

***RULE 8.4 Misconduct***

*It is professional misconduct for a lawyer to:*

\* \* \*

*(b) commit a criminal or deliberately wrongful act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness to practice law[.]*

VSB Docket No. 22-022-125347:

The Respondent stipulated to the following violation of the Rules of Professional Conduct:

***RULE 8.1 Bar Admission and Disciplinary Matters***

*An applicant for admission to the bar, or a lawyer already admitted to the bar, in connection with a bar admission application, any certification required to be filed as a condition of maintaining or renewing a license to practice law, or in connection with a disciplinary matter, shall not:*

\* \* \*

*(c) fail to respond to a lawful demand for information from an admission or disciplinary authority, except that this Rule does not require disclosure of information otherwise protected by Rule 1.6; or*

*(d) obstruct a lawful investigation by an admissions or disciplinary authority.*

In addition, the Board finds that by failing to cooperate with the Bar Investigator Respondent violated the following Rule of Professional Conduct:

***RULE 8.4 Misconduct***

*It is professional misconduct for a lawyer to:*

\* \* \*

*(b) commit a criminal or deliberately wrongful act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness to practice law[.]*

The Board finds insufficient evidence to support the alleged violations of Rule 1.4(a), (b) (Communication), Rule 1.16(d) (Declining or Terminating Representation), and Rule 3.4(d) (Fairness to Opposing Party and Counsel).

VSB Docket No. 22-021-125400

The Respondent stipulated to the following violations of the Rules of Professional Conduct:

***RULE 8.1 Bar Admission and Disciplinary Matters***

*An applicant for admission to the bar, or a lawyer already admitted to the bar, in connection with a bar admission application, any certification required to be filed as a condition of maintaining or renewing a license to practice law, or in connection with a disciplinary matter, shall not:*

\* \* \*

*(c) fail to respond to a lawful demand for information from an admission or disciplinary authority, except that this Rule does not require disclosure of information otherwise protected by Rule 1.6; or*

*(d) obstruct a lawful investigation by an admissions or disciplinary authority.*

In addition, the Board finds that by entering the Virginia Beach Courthouse on February 22 and March 8, 2022, while in possession of a firearm in violation of the Court's security orders and Va. Code § 18.2-283.1, Respondent violated the following Rule of Professional Conduct:

***RULE 8.4 Misconduct***

*It is professional misconduct for a lawyer to:*

\* \* \*

*(b) commit a criminal or deliberately wrongful act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness to practice law[.]*

After announcing its findings on the violations, the Chair Designate indicated that the Board denied each motion to strike made by the Respondent at the close of the evidence of the alleged violations.

**III. SANCTION**

After the Board announced its findings by clear and convincing evidence, it received further evidence and argument from the Bar and Respondent regarding aggravating and mitigating

factors applicable to the appropriate sanction for the misconduct underlying the violations of the Rules of Professional Conduct, including Respondent's prior disciplinary record, which reflected no prior disciplinary history (Board Ex. 2), records from Northampton County Circuit Court in Commonwealth v. Matthew Taylor Morris, Case No. CR22000221-01, related to Respondent's failure to appear for docket call on August 8, 2022 (VSB Ex. 1 – sanction phase), and character letters in support of Respondent (Respondent's Ex. 1).

The Board also heard testimony from Respondent and VSB Investigator Pucky.

The Board considered as aggravating factors the following: Respondent's pattern of misconduct; the multiple offenses brought before the Board, the seriousness of the firearm safety violations (including violation of the applicable statute prohibiting firearms in the courts); Respondent's behavior before the court between March and August 2022 that resulted in the Suspension Order, the issuance of a show cause for his failure to appear, and challenges for his clients; Respondent's letter to his clients attacking the integrity of the Court and legal process; and Respondent's bad faith obstruction in refusing to cooperate with the Bar Investigator.

The Board considered as mitigating factors the following: Respondent has had no previous disciplinary violations; Respondent was experiencing serious personal issues at the time of conduct underlying these violations that substantially affected his ability to manage his law practice and meet his clients' needs; Respondent's expression of remorse for his actions; Respondent's acceptance of responsibility for his actions and cooperation with the VSB during the proceedings; the character letters reflecting strong support for Respondent from others in the legal profession, including Respondent's present employer, the Commonwealth Attorney for the City of Portsmouth, Stephanie N. Morales, whose letter spoke to Respondent's diligence and competence in the performance of his present legal duties.

#### IV. DISPOSITION

Following deliberation of the appropriate sanction, the Board reconvened and announced its decision. Having considered the evidence presented and argument of counsel, it is

ORDERED that the Respondent, Matthew Taylor Morris, receive a Public Reprimand with the following terms, effective December 16, 2022:

1. Respondent must attend the Virginia State Bar Professionalism course within six months of the effective date of the Public Reprimand; and
2. Respondent must have no violations of the Rules of Professional Conduct for a period of one year from the effective date of the Public Reprimand.

The alternative sanction, if Respondent fails either of the above terms, is a suspension of his law license for a period of six months.

It is further ORDERED that pursuant to Part 6, Section IV, Paragraph 13-9.E of the Rules of the Supreme Court of Virginia, the Clerk of the Disciplinary System shall assess all costs against the Respondent.

It is further ORDERED that the Clerk of the Disciplinary System shall mail an attested copy of this order to the Respondent by certified mail, return receipt requested, and by regular first-class mail and to his address of record with the Virginia State Bar, being 1877 Pittsburg Landing, Virginia Beach, Virginia 23464, and a copy by electronic mail to Seth T. Shelley, Assistant Bar Counsel.

ENTERED this 23<sup>rd</sup> day of January, 2023

VIRGINIA STATE BAR DISCIPLINARY BOARD

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Carolyn V. Grady, Chair Designate