

VIRGINIA:

BEFORE THE CIRCUIT COURT OF SHENANDOAH COUNTY

VIRGINIA STATE BAR *EX REL*
SEVENTH DISTRICT COMMITTEE
VSB Docket No. 23-070-128234

v.

Case No. CL 24000-219

BRADLEY G. POLLACK.

AGREED DISPOSITION MEMORANDUM ORDER
NINE-MONTH SUSPENSION

This matter came to be heard on May 28, 2024, before a Circuit Court Three-Judge panel, upon the joint request of the parties for the Court to accept the Agreed Disposition endorsed by the parties and offered to the Court as provided by the Rules of the Supreme Court of Virginia.

The panel consisted of the Honorable Everett A. Martin, Jr., Judge of the Fourth Judicial Circuit, Designated Chief Judge, the Honorable Steven B. Novey, Judge of the Twelfth Judicial Circuit, and the Honorable Anne F. Reed, Judge of the Twenty-Fifth Judicial Circuit.

Bradley G. Pollack (“Respondent”) was present and was represented by counsel, Jeffrey H. Geiger, Esquire. The Virginia State Bar appeared through its Assistant Bar Counsel, Joseph M. Caturano, Jr., Esquire.

The Chief Judge polled the members of the panel 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 judge responded in the negative. Court Reporter Lisa Wright, Chandler & 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, the Respondent's Answer, the Respondent's Disciplinary Record, the arguments of the parties, and after due deliberation, it is:

ORDERED that the Circuit Court accepts the Agreed Disposition, and the Respondent shall receive a suspension of nine (9) months. The Agreed Disposition is attached to and incorporated in this Memorandum Order.

It is further **ORDERED** that the sanction is effective May 29, 2024.

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 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 in conformity with the wishes of his 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, he 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 Virginia State Bar Disciplinary 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 of the Supreme Court of Virginia.

It is further **ORDERED** that a certified copy of this Order be mailed to the Respondent, Bradley G. Pollack, by regular first-class mail and by certified mail, return receipt requested, at his Virginia State Bar address of record, 440 North Main Street, Woodstock, Virginia 22664, and by electronic mail, and that a copy be sent by electronic mail to Jeffrey H. Geiger, Esquire, Counsel for Respondent, and to Joseph M. Caturano, Jr., Esquire, Assistant Bar Counsel, and to Joanne Fronfelter, the Clerk of the Disciplinary System, Virginia State Bar, 1111 East Main Street, Suite 700, Richmond, VA 23219-0026.

ENTERED THIS 29th DAY OF MAY 2024



The Honorable Everett A. Martin, Jr.
Chief Judge

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Case No. CL 24000-219

BRADLEY G. POLLACK.

AGREED DISPOSITION
NINE-MONTH SUSPENSION

Pursuant to Va. Code § 54.1-3935 and Part 6, § IV, ¶ 13-6.H of the Rules of the Supreme Court of Virginia, the Virginia State Bar, by Joseph M. Caturano, Jr., Esquire, Assistant Bar Counsel; Bradley G. Pollack (“Respondent”); and Jeffrey H. Geiger, Esquire, counsel for Respondent; hereby enter the following Agreed Disposition arising out of the referenced matters.

I. STIPULATIONS OF FACT

1. Respondent was licensed to practice law in the Commonwealth of Virginia on October 2, 1985.
2. On December 21, 2020, pursuant to Va. Code § 16.1-266, Respondent was appointed by the Juvenile and Domestic Relations District Court of Shenandoah County as counsel for Amanda Golliday (“Ms. Golliday”) in a termination of residual parental rights case brought by the Virginia Department of Social Services (Case Nos.: JJ017304-06; JJ017305-06; CJ21-06 through CJ21-09). The Appointment Order of December 21, 2020, stated, in relevant part, “Therefore I appoint the lawyer indicated below to represent the adult at such hearings and all other stages of the proceeding in this court and in any other court to which this case may be appealed or certified until relieved or replaced by another lawyer.”
3. Va. Code § 16.1-266 states, in relevant part,

* * *

D. A judge, clerk or probation officer shall inform the parent ... of his right to counsel prior to ... a hearing at which a parent could be subjected to the loss of residual parental rights.

E. In those cases described in subsections A, B, C and D, which in the discretion of the court require counsel ... to represent ... the parent, ... a discreet and competent attorney-at-law may be appointed by the court as counsel ...

4. Va. Code § 16.1-268 states, in relevant part,

The order of appointment of counsel ... pursuant to § 16.1-266 shall be filed with and become a part of the record of such proceeding. Any attorney so appointed shall represent the ... parent ... at any such hearing and at all other stages of the proceeding unless relieved or replaced in the manner provided by law.

5. By Final Order entered June 30, 2021, the Circuit Court of Shenandoah County (“Circuit Court”) terminated the residual parental rights of Ms. Golliday over her minor children, after a trial in which Respondent represented Ms. Golliday.
6. Respondent endorsed the Final Order of June 30, 2021, in the Circuit Court, on behalf of his client, Ms. Golliday, noting an objection.
7. Respondent failed to advise Ms. Golliday fully of her rights to appeal the Final Order of June 30, 2021, to the Court of Appeals of Virginia (“Court of Appeals”) and to the right to court-appointed counsel in any appeal, including the Respondent.
8. On July 28, 2021, Ms. Golliday noted an appeal, *pro se*, with the Court of Appeals.
9. On September 16, 2021, the Clerk of the Circuit Court emailed Respondent that the case was submitted to the Court of Appeals; and that “Ms. Golliday submitted her appeal as Pro-Se, however, at the time of the final order you represented her as counsel. If you no longer represent her, please submit an order to this court withdrawing as counsel.”
10. Also on September 16, 2021, the Clerk of the Circuit Court emailed Respondent, stating: “if [Respondent] is no longer [going] to represent her [in the appeal to the Court of Appeals], please submit an order ... withdrawing as counsel.”
11. On September 23, 2021, Respondent notified the Clerk of the Circuit Court that he would endorse and deliver a proposed *Order of Withdrawal as Counsel for Defendant* for entry by the Circuit Court. The proposed *Order of Withdrawal as Counsel for Defendant*, subsequently submitted by Respondent for entry, was not endorsed by Ms. Golliday or opposing counsel and, therefore, was not entered by the Circuit Court or by the Court of Appeals.

12. On September 24, 2021, the Court of Appeals notified Respondent by email that the record of the proceeding had been received by the Clerk's Office of the Court of Appeals. Respondent forwarded that email notification to Ms. Golliday on September 24, 2021, which stated the following:

This is to notify you that the record of the proceedings in this case in the trial court was received in the clerk's office of the Court of Appeals of Virginia on **September 24, 2021**.

The rules of practice before the Court of Appeals of Virginia are found in the Rules of the Supreme Court of Virginia at Part 5A, published as volume 11, Code of Virginia Annotated. **(The Rules of Court may be found here: <http://www.vacourts.gov/courts/scv/rulesofcourt.pdf>)** Under those rules, the date on which the record is received at this Court is used to establish the beginning of important periods allowed for the filing of further documents and pleadings. In particular:

1. In appeals by petition, the petition for an appeal is due no later than 40 days after the date on which the record is received by the Court of Appeals. **Va. Code § 17.1-408; Rule 5A:12(a).**
2. In appeals of right, the time for filing the designation of the contents to be included in the appendix runs from this date, Rule 5A:25(b), and the appendix and opening brief of the appellant are due no later than 40 days after the record is received by the Court of Appeals, Rule 5A:19(b)(1).

Please consult Part 5A of the Rules for information on filing times and other requirements. Failure to comply with the rules may result in various sanctions, including dismissal of the appeal.

13. More than one month later, on October 28, 2021, Respondent emailed Ms. Golliday asking, "will you be filing this?" presumably in reference to the submissions due in the appeal to the Court of Appeals. On October 28, 2021, Ms. Golliday responded, "Yes, I will." However, it is understood that Ms. Golliday did not know what filing she was required to make with the Court of Appeals to perfect the appeal or that she was entitled to the advice of counsel.
14. More than two months later, on January 4, 2022, the Court of Appeals sent written notice to Respondent on the status of the appeal, specifically that the record of the proceedings in the case was received by the Clerk's Office of the Court of Appeals on September 24, 2021, and the applicable appellate time limits for filing the petition shall run from January 4, 2022. On January 4, 2022, Respondent sent email correspondence to Ms. Golliday (with a copy of the email correspondence from the Court of Appeals), and asked Ms. Golliday, "If there is anything you would like me to do with this, please let me know."

15. In a January 6, 2022, email to Respondent, Ms. Golliday stated: “Yes, I want to appeal it and want to take this [higher] up. I just got this email.”
16. On January 7, 2022, Respondent responded to Ms. Golliday “Will you be filing the appeal?” Respondent did not directly respond to Ms. Golliday’s statement in her January 6, 2022, email that she wanted to pursue the appeal.
17. No response from Ms. Golliday was forthcoming, and Respondent did not follow-up with Ms. Golliday on her email correspondence of January 6, 2022.
18. On February 2, 2022, Respondent followed up on his January 7, 2022 email, and sent email correspondence to Ms. Golliday, asking, “Will you be filing the appeal, or would you rather not continue to pursue this?”
19. On February 8, 2022, Ms. Golliday responded to Respondent with, “I’ve already filed the appeal.” However, Ms. Golliday had not filed the required petition with the Court of Appeals, as required by the Rules of the Supreme Court of Virginia and Respondent had access to the Court of Appeals file to confirm it, but did not do so. Respondent did not follow-up with Ms. Golliday or advise her further about the appellate process and filing deadlines.
20. On March 2, 2022, the Court of Appeals sent written notice to Respondent stating, “the applicable time limits for filing the petition shall run from March 2, 2022.” Respondent merely forwarded the March 2, 2022 email to Ms. Golliday.
21. By Order entered on April 29, 2022, the Court of Appeals dismissed the appeal, stating:

The record in this case was acknowledged on March 2, 2022. Thus, appellant was required to file an opening brief by April 11, 2022. No opening brief has been filed. Because the appellant failed to file an opening brief, we dismiss the appeal[.]
22. On May 24, 2024, Respondent accepted responsibility for the misconduct alleged herein.

II. NATURE OF MISCONDUCT

By failing to consult with Ms. Golliday on the appeal she sought to pursue to the Court of Appeals, and by failing to timely file an opening brief with the Court of Appeals for Ms. Golliday, as required by law, Respondent violated Rule 1.2(a).

RULE 1.2 Scope of Representation

- (a) A lawyer shall abide by a client's decisions concerning the objectives of representation, subject to paragraphs (b), (c), and (d), and shall consult with the client as to the means by which they are to be pursued.

By failing to act with reasonable diligence and promptness in representing Ms. Golliday in perfecting the appeal to the Court of Appeals and representing her in the appeal and/or by failing to act with reasonable diligence and promptness in withdrawing as counsel of record for Ms. Golliday, Respondent violated RPC 1.3(a) and (b).

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 keep Ms. Golliday reasonably informed about the appeal process, and the status of the appeal to the Court of Appeals, Respondent violated RPC 1.4(a);

By failing to explain the matter to the extent reasonably necessary to permit Ms. Golliday to make informed decisions regarding the representation, specifically, that she retained the right to have court-appointed counsel represent her in the appeal and by failing to provide her with information necessary to perfect the appeal, Respondent violated RPC 1.4(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 withdraw as counsel of record for Ms. Golliday, by leave of court after compliance with notice requirements pursuant to applicable Rules of Court, Respondent violated 1.16(c).

RULE 1.16 Declining or Terminating Representation

* * *

- (c) In any court proceeding, counsel of record shall not withdraw except by leave of court after compliance with notice requirements pursuant to applicable Rules of Court. In

any other matter, a lawyer shall continue representation notwithstanding good cause for terminating the representation, when ordered to do so by a tribunal.

III. PROPOSED DISPOSITION

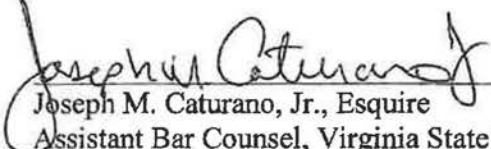
Accordingly, Joseph M. Caturano, Jr., Esquire, Assistant Bar Counsel; Bradley G. Pollack, Respondent; and Jeffrey H. Geiger, Esquire, counsel for Respondent; tender to the three-judge Circuit Court panel for its approval the Agreed Disposition of a Nine-Month Suspension as representing an appropriate sanction if these matters were to be heard through an evidentiary hearing by the three-judge Circuit Court panel.

Assistant Bar Counsel, Respondent, and Counsel for Respondent agree that the effective date for the sanction herein imposed shall be the date of entry of the Order approving this Agreed Disposition.

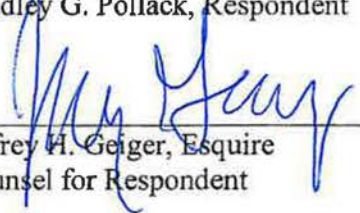
Pursuant to Part 6, § IV, ¶ 13-30.B of the Rules of the Supreme Court of Virginia, Respondent's prior disciplinary record shall be furnished to the three-judge Circuit Court panel considering this Agreed Disposition.

If the Agreed Disposition is approved, the Clerk of the Disciplinary System shall assess costs pursuant to Part 6, § IV, ¶ 13-9.E of the Rules of the Supreme Court of Virginia.

THE VIRGINIA STATE BAR


Joseph M. Caturano, Jr., Esquire
Assistant Bar Counsel, Virginia State Bar


Bradley G. Pollack, Respondent


Jeffrey H. Geiger, Esquire
Counsel for Respondent