

VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

**IN THE MATTERS OF
CHRISTOPHER MATTHEW REYES**

**VSB Docket Nos. 20-060-117977
20-060-118002
20-060-118536
20-060-118632
20-060-118917**

MEMORANDUM ORDER OF SUSPENSION

THIS MATTER came to be heard on April 23, 2021, on the Subcommittee Determination for Certification by the Sixth District Subcommittee of the Virginia State Bar, before a panel of the Virginia State Bar Disciplinary Board (“Board”) consisting of Carolyn V. Grady, 1st Vice Chair; Sandra L. Havrilak; Tony Pham; Alexander Simon; and Nancy L. Bloom, Lay Member. The Virginia State Bar (the “VSB”) was represented by Assistant Bar Counsel Prescott L. Prince (“Assistant Bar Counsel”). The Respondent Christopher Matthew Reyes (hereinafter “Respondent”) was present and was represented by Bernard J. DiMuro, Esquire, DiMuroGinsberg PC, 1101 King Street, Suite 610, Alexandria, Virginia 22314, (703) 684-4333. Beverly S. Lukowsky, court reporter, Chandler and Halasz, Inc., P.O. Box 9349, Richmond, Virginia 23227, (804) 730-1222, after being duly sworn, reported the hearing and transcribed the proceedings.

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).

At the outset of the hearing, the Chair polled the members of the panel as to whether any of them was aware 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 Six, Section IV, Paragraph 13-18 of the Rules of the Supreme Court of Virginia.

On April 12, 2021, pursuant to the prehearing conference call conducted in these matters, Carolyn V. Grady, 1st Vice Chair, entered a Prehearing Conference Call Order, reflecting that the VSB timely filed witness and exhibit lists, that there were no objections filed by the Respondent to the VSB's witness and exhibit list, and that the VSB exhibits would be admitted into evidence at the hearing.

On April 16, 2021, Assistant Bar Counsel and Respondent jointly filed a Stipulation of Facts and Violation of Rules with the VSB Clerk's Office. The Chair and the Board accepted the Stipulation of Facts and Violation of the Rules, and it is attached hereto and incorporated herein.

Pursuant to the Prehearing Conference Call Order, VSB Exhibits 1-47 were admitted into evidence by the Chair, without objection from the Respondent. All of the factual findings made by the Board were found to have been proven by clear and convincing evidence.

MISCONDUCT

Respondent was an attorney licensed to practice law in the Commonwealth of Virginia at all times relevant to the conduct set forth herein. Based upon the evidence presented, including

the Certification received into evidence as Exhibit 1 and the Stipulation attached hereto and incorporated herein, and for the reasons more particularly set forth herein below, the Board finds, by clear and convincing evidence, that Respondent's conduct, as set forth herein, constitutes misconduct in violation of Rules 1.2(a), 1.3(a), 1.3(b), 1.4(a), 1.4(b), 1.16(d), 8.1(c), and 8.1(d).

Rule 1.2

The Board finds by clear and convincing evidence that the Respondent took actions in violation of Rule 1.2(a) in VSB Docket No. 117977 (hereinafter "the White Case"), VSB Docket No. 118002 (hereinafter "the Keesecker Case"), VSB Docket No. 118917 (hereinafter "the Chohan and Burrows Case"), and VSB Docket No. 118632 (hereinafter "the Brown Case").

Rule 1.2 requires a lawyer to abide by a client's decisions regarding the objectives of the representation and to consult with the client with respect to the means by which those objectives are pursued. In the White Case, the Stafford Circuit Court appointed Respondent to represent Alonzo Devon White (hereinafter "White") with regard to certain felony charges, and Respondent was also appointed as appellate counsel for White regarding said charges. Respondent failed to timely file the Notice of Appeal; and, as a result, the Court of Appeals dismissed the appeal on August 20, 2018 due to procedural default.

Likewise, in the Keesecker Case, Respondent was appointed by the Stafford Circuit Court as appellate counsel to represent Michael A. Keesecker (hereinafter "Keesecker") on charges of which Keesecker had previously been convicted. However, Respondent failed to timely file the Petition for Appeal, resulting in Keesecker's appeal being dismissed due to procedural default.

In the Chohan and Burrows Case, the Court of Appeals notified the Virginia State Bar that, in two separate underlying cases, Respondent's actions resulted in his client's appeal being dismissed due to procedural defaults. Respondent was appointed by the Fredericksburg Circuit

Court to represent Adrian Latif Chohan (hereinafter “Chohan”) on felony charges; and, following Chohan’s conviction, Respondent was appointed as appellate counsel for Chohan. Although Respondent filed a Notice of Appeal, he failed to file a Petition for Appeal; and, on October 8, 2019, Chohan’s appeal was dismissed. The Fredericksburg Circuit Court also appointed Respondent to represent James Jacob Burrows as appellate counsel for felony charges of which Burrows had previously been convicted. Respondent again filed a Notice of Appeal but failed to file a Petition for Appeal, resulting in the appeal being dismissed on October 8, 2019.

Finally, in the Brown Case, the Fredericksburg Circuit Court appointed Respondent to represent James L. Brown (hereinafter “Brown”) as appellate counsel for felony charges of which Brown had previously been convicted. Although Respondent timely filed the Notice and Petition for Appeal, he failed to communicate with Brown prior to the filing of the Petition regarding Brown’s concerns that additional issues should have been addressed on appeal. Brown’s appeal was subsequently denied. When the appeal was denied, Respondent failed to notify Brown of the same and failed to appeal the matter to the Supreme Court of Virginia despite the Standards of Practice for Indigent Defense Counsel providing that, unless otherwise directed by the client, court-appointed counsel for an indigent defendant must continue the appeal of a criminal conviction to the Supreme Court of Virginia.¹

The Respondent’s failure to pursue the appeals as directed by his clients in the White Case, the Keesecker Case, the Chohan and Burrows Case, and the Brown Case; and, the Respondent’s failure to pursue Brown’s appeal to the Supreme Court of Virginia constitute a violation of Rule 1.2(a) of the *Rules of Professional Conduct*.

Rule 1.3

¹ See VSB Ex. 31.

The Board finds by clear and convincing evidence that the Respondent took actions in violation of Rules 1.3(a) and 1.3(b) in the White Case, the Keesecker Case, the Chohan and Burrows Case, and the Brown Case. Pursuant to Rule 1.3(a) and Rule 1.3(b), a lawyer must act with reasonable diligence and promptness in representing his clients and must not intentionally fail to carry out a contract of employment entered into with a client for professional services. The Respondent's failure to timely pursue the appeals in the White Case, the Keesecker Case, the Chohan and Burrows Case, and the Brown Case and his failure to take appropriate steps to correct his mistakes in each of these cases as set forth herein above constitute a violation of Rules 1.3(a) and 1.3(b) of the *Rules of Professional Conduct*.

Rule 1.4

The Board finds by clear and convincing evidence that the Respondent took actions in violation of Rule 1.4(a) in the White Case, the Keesecker Case, the Chohan and Burrows Case, the Brown Case, and VSB Docket No. 118536 (hereinafter "the Haines Case"); and, Respondent took actions in violation of Rule 1.4(b) in the White Case, the Keesecker Case, the Chohan and Burrows Case, and the Brown Case. Rule 1.4(a) requires a lawyer to keep a client reasonably informed about the status of his or her case and promptly comply with reasonable requests for information; and, Rule 1.4(b) imposes a duty upon a lawyer to explain a matter to the extent reasonably necessary to permit the client to make informed decisions.

In the White Case, there was no evidence that Respondent ever discussed with White his right to pursue an appeal of the criminal convictions, informed him of the procedural default and dismissal of the appeal, or advised him of other appellate options or remedies available to him. Likewise, in the Keesecker Case, Respondent made no effort to contact Keesecker regarding his appeal; and, in the Chohan and Burrows Case, Respondent failed to notify both Chohan and Burrows of the dismissal of their respective appeals and failed to discuss with them additional

appellate options available. In the Brown Case, when Brown's appeal was denied, Respondent failed to provide Brown with a copy of the Order of Dismissal and failed to inform him of his legal options following the dismissal. In fact, Brown only discovered that his appeal had been dismissed when he wrote to the Court of Appeals to request new counsel.

In the Haines Case, Respondent likewise failed to sufficiently communicate with his client. Stephanie Haines (hereinafter "Haines") retained Respondent in February 2020 to represent her on a charge of domestic assault in the Fauquier County Juvenile and Domestic Relations District Court. Respondent negotiated a plea that provided for dismissal of the charges if Haines complied with the terms of the court order that included a provision that Haines have no further violations of the law for a period of two years. Haines was subsequently arrested and sentenced on unrelated charges; and, in accordance with Respondent's recommendation, appealed the matter. Haines maintains that Respondent stated that he would represent her in Circuit Court; and, she made multiple attempts to contact Respondent and left messages informing him of the date of the Circuit Court hearing. Respondent claims he never agreed to represent Haines in Circuit Court; however, he never responded to Haines's numerous attempts to contact him and did not appear on the date of the hearing in Circuit Court.

The Respondent's failure in the White Case, the Keesecker Case, the Chohan and Burrows Case, and the Brown Case to provide his clients with the appellate dismissal orders and to properly inform them of their legal options constitutes violations of Rule 1.4(a) and Rule 1.4(b); and, Respondent's failure to respond to Haines's numerous messages and inform Haines that he would not represent her in Circuit Court constitutes a violation of Rule 1.4(a).

Rule 1.16

The Board finds by clear and convincing evidence that the Respondent took actions in violation of Rule 1.16(d) in the Haines Case. In accordance with Rule 1.16(d), upon termination

of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, refunding any advance payment of fee that has not been earned, and properly handling records. Respondent's failure in the Haines Case to clearly communicate to Haines that he would not represent her in the Circuit Court hearing, despite having advised her to appeal the matter, constitutes a violation of Rule 1.16(d) of the *Rules of Professional Conduct*.

Rule 8.1

The Board finds by clear and convincing evidence that the Respondent took actions in violation of Rule 8.1(c) in the Brown Case, the Keesecker Case, and the Haines Case; and, Respondent took actions in violation of Rule 8.1(d) in the White Case, the Keesecker Case, and the Haines Case.

Rule 8.1 of the *Rules of Professional Conduct* governs disciplinary matters before the Bar and prohibits lawyers from making false statements of material fact, failing to respond to demands for information, or otherwise obstructing an investigation by a disciplinary authority. As a result of his conduct as set forth herein, numerous bar complaints were filed against the Respondent; and, the Board finds that the Respondent intentionally failed to cooperate in resolving the complaints and intentionally obstructed the investigations in violation of Rule 8.1.

In the Brown Case, Respondent was notified by the VSB of the bar complaint against him on April 24, 2020; however, the Respondent failed to timely respond to the complaint. Respondent also failed to respond to the bar complaint in the Keesecker Case and the Haines Case, despite being notified of the complaints by the VSB on February 26, 2020 and April 10, 2020, respectively. Moreover, in both of these cases, Respondent was contacted on at least three occasions by the VSB Investigator and failed to respond to the Investigator's request for a meeting. The Respondent engaged in similar behavior in the White Case, in which Respondent

was contacted and failed to respond on at least four occasions. In each case, the VSB Investigator was forced to issue a summons for the Respondent to appear for an interview, significantly delaying the investigations.

In each of these cases, Respondent was notified of his obligation to cooperate with the VSB's investigation; yet, he failed to do so. His failure to timely respond to the bar complaints in the Brown Case, the Keesecker Case, and the Haines Case constitutes a violation of Rule 8.1(c), and Respondent's failure to cooperate with the VSB Investigator's request for an interview in the White Case, the Keesecker Case, and the Haines Case constitutes a violation of Rule 8.1(d) of the *Rules of Professional Conduct*.

THE BOARD'S FINDINGS

Having received the Stipulation which admits the violations contained in the Certification and having considered the testimony and evidence presented during the hearing, the Board recessed to deliberate; and, after due deliberation, reconvened and stated its finding that the VSB had proven, by clear and convincing evidence, each of the Rule violations charged. The Board then reconvened for the sanction phase of the hearing, as addressed herein.

SANCTION PHASE OF HEARING

After the Board announced its findings by clear and convincing evidence that the Respondent had committed the Rule violations charged in the Certification, it received further evidence regarding aggravating factors applicable to the appropriate sanction for the conduct of the Respondent underlying the Rule violations. One aggravating factor was that he did not utilize the computer calendaring system run by his firm. The VSB relied upon Exhibit 48 concerning Respondent's prior disciplinary record, thereafter, resting its case.

Subsequently, the Board heard evidence regarding mitigating factors applicable to the appropriate sanction. Respondent testified on his own behalf about his law practice

progression from public defender to private practice and how he felt overwhelmed and continued to struggle with the loss of his mother. The Board also heard from his colleague, Rebecca Medina, who discussed his busy practice, and his good results for clients but also echoed that she noticed that he appeared overwhelmed. Finally, the Respondent called John Spencer, a Partner in Respondent's law firm, who both testified that Respondent is a smart, compassionate, and a good lawyer but that he was over-worked, burnt out and apparently was not utilizing the firm computer calendaring program.

DISPOSITION

At the conclusion of the evidence in the sanctions phase of this proceeding, the Board recessed to deliberate. After due deliberation and review of the foregoing findings of fact, upon review of Exhibits 1-48 presented by Assistant Bar Counsel on behalf of the VSB and upon the testimony of the witnesses, the Board reconvened and stated its finding that Respondent's violations, along with his prior disciplinary record, demonstrate a failure to uphold his duties to his clients and the profession.

Upon consideration of the evidence and the nature of the misconduct committed by Respondent, it is ORDERED, by unanimous vote of the Board, that the Respondent's license to practice law in the Commonwealth of Virginia be suspended for a period of one (1) year, effective April 23, 2021.

It is further ORDERED that Respondent shall participate in an evaluation conducted by the Judges & Lawyers Assistance Program (JLAP) within seven (7) days of the effective date of the suspension and shall implement all JLAP's recommendations. The Respondent shall enter into a written contract with JLAP for a minimum period of twenty-four (24) months and shall comply with the terms of such contract, including *inter alia*, personally meeting with JLAP and its professionals, as directed. The Respondent shall authorize JLAP (1) to provide

periodic reports to the Office of Bar Counsel stating whether the Respondent is in compliance with JLAP's contract with the Respondent, and (2) to notify the Office of Bar Counsel promptly if the Respondent fails to follow the JLAP prescribed program, or ends participation in the JLAP prescribed program sooner than the expiration of the JLAP contract. In the event the Respondent fails to comply with JLAP's contract, fails to follow the JLAP prescribed program, or ends participation in the JLAP prescribed program sooner than the expiration of the JLAP contract, his license to practice law in the Commonwealth of Virginia shall be suspended for a period of three (3) years.

It is further ORDERED that, no later than 90 days before April 23, 2022, the Respondent shall engage the services of a law office management consultant approved by the Virginia State Bar to review and make written recommendations concerning the Respondent's law practice policies, methods, systems, trust account, and procedures. The Respondent shall institute and thereafter follow with consistency any and all recommendations made to him by the law office management consultant following the law office management consultant's evaluation of the practice. The Respondent shall grant the law office management consultant access to his law practice from time to time, at the consultant's request, for purposes of ensuring that the Respondent has instituted and is complying with the law office management consultant's recommendations. Bar Counsel shall have access, by telephone conferences and/or written reports, to the law office management consultant's findings and recommendations, as well as the consultant's assessment of the Respondent's level of compliance with said recommendations. The Respondent shall be obligated to pay when due the consultant's fees and costs, including, but not limited to, the provision to Bar Counsel of information concerning this matter.

It is further ORDERED that, not later than 90 days before April 23, 2022, the Respondent shall be responsible for (1) ensuring that the law office management consultant has previously reported to Bar Counsel his or her findings and recommendations regarding the Respondent's law practice, (2) certifying to Bar Counsel that the Respondent has fully complied with the law office management consultant's findings and recommendations, and (3) providing written confirmation of the same from the law office management consultant.

It is further ORDERED that Respondent must comply with the requirements of Part 6, Section § IV, ¶ 13-29 of the *Rules of Supreme Court of Virginia*. 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. Respondent shall give such notice within fourteen (14) days of the effective date of the suspension and make such arrangements as are required herein within forty-five (45) days of the effective date of the suspension. Respondent shall also furnish proof to the Bar within sixty (60) days of the effective day of the suspension that such notices have been timely given and such arrangements made for the disposition of matters.

It is further ORDERED that if Respondent is not handling any client matters on the effective date of suspension, he shall submit an affidavit to that effect to the Clerk of the Disciplinary System at the Virginia State Bar within sixty (60) days of the effective day of the suspension. All issues concerning the adequacy of the notice and arrangements required by Paragraph 13-29 shall be determined by the Virginia State Bar Disciplinary Board, which may impose additional sanctions for failure to comply with the requirements of this subparagraph.

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

It is further ORDERED that the Clerk of the Disciplinary System shall mail an attested copy of this Order to Respondent at his address of record with the Virginia State Bar by certified mail, return receipt requested, and by regular and electronic mail, and a copy by electronic mail to Bernard J. DiMuro, Esquire, counsel for the Respondent and Prescott L. Prince, Assistant Bar Counsel.

This Order is final.

ENTERED this 17th day of May, 2021.

VIRGINIA STATE BAR DISCIPLINARY BOARD

Carolyn V. Grady, 1st Vice Chair