

VIRGINIA :

BEFORE THE FOURTH DISTRICT—SECTION I COMMITTEE
OF THE VIRGINIA STATE BAR

received

IN THE MATTER OF JERRY CARLOS LYELL, ESQ.
VSB Docket No. 05-041-1667

VSB CLERK'S OFFICE

COMMITTEE DETERMINATION
PUBLIC REPRIMAND

On May 10, 2006, a hearing in this matter was held on the charge of misconduct contained in the Notice of Hearing issued by Bar Counsel to Jerry Carlos Lyell, the Respondent, on February 24, 2006. The hearing was conducted before the duly convened Fourth District—Section I Committee of the Virginia State Bar, consisting of David Alan Sattler, Esq., Mary Ellen Craig, Esq., Debra D. Fitzgerald-O'Connell, Esq., Raighne Coleman Delaney, Esq, Romaine Frances O'Brien, Esq., Ms. Patricia A. Bias lay member, and David Edward Sher, Esq., presiding.

The Chair polled the members of the Committee 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 all members responded in the negative.

The Virginia State Bar was represented by Seth M. Guggenheim, Assistant Bar Counsel. The Respondent appeared, *pro se*. Rudiger, Green & Kerns Reporting Service, 4116 Leonard Drive, Fairfax, Virginia 22030, telephone number (703) 591-3136, provided court reporting services for the proceedings.

Pursuant to Part 6, §IV, ¶ 13(H) of the Rules of the Supreme Court of Virginia, the Fourth District—Section I Committee of the Virginia State Bar hereby serves upon the Respondent a Public Reprimand, as follows:

I. FINDINGS OF FACT

1. At all times relevant to the facts set forth herein, Jerry Carlos Lyell, Esq. (hereafter “Respondent”), was an attorney licensed to practice law in the Commonwealth of Virginia.
2. In November of 2003, the Respondent was appointed by the Arlington County, Virginia, General District Court to represent an individual then identified as Christopher Troy Michael on a felony charge of grand larceny.
3. As of the time of a bond motion attended by the Respondent, the Respondent learned that the government had information that the Respondent’s client was in fact named Kerri Lee Thompson, who had an extensive criminal record under that name.
4. After first denying that his name was Kerri Lee Thompson, the Respondent’s client admitted to the Respondent that he was, in fact, Kerri Lee Thompson, and that the conviction record existing under that name was, in fact, his record. The Respondent’s client’s admission regarding his true name had been made to the Respondent as of the time of the client’s scheduled preliminary hearing on November 24, 2003.
5. Notwithstanding the information in the government’s files respecting the Respondent’s client’s true identity, the Commonwealth of Virginia issued an indictment against Christopher Troy Michael. Following his indictment, the Respondent’s client agreed to plead guilty to the charge of grand larceny. A “Plea Memorandum” was prepared by the Office of the

Commonwealth's Attorney for execution by the Respondent's client. The first paragraph of the Plea Memorandum read "My name is Christopher Troy Michael and my birth date is March 7, 1973."

6. The Plea Memorandum was signed by Respondent's client as "Christopher Michael" on January 7, 2004, and was endorsed by the Respondent and a prosecutor. Despite Respondent's knowledge that his client's true name was Kerri Lee Thompson, he nonetheless counseled the client to proceed in the criminal matter under the name of Christopher Troy Michael, and acquiesced in and witnessed his client's execution of the Plea Memorandum using that fictitious name.

7. On January 7, 2004, Kerri Lee Thompson appeared before a judge of the Arlington County Circuit Court to enter a plea of guilty to the grand larceny charge. After first being sworn, Kerri Lee Thompson falsely stated, in Respondent's presence, in response to questions from the Court that his name was Christopher Michael and that his date of birth was March 7, 1973. The Respondent took no action on the occasion of the January 7, 2004, court appearance to correct the false testimony of his client or otherwise to advise the Court that he had counseled his client to proceed before the Court via the fictitious name of Christopher Troy Michael.

8. On March 26, 2004, Kerri Lee Thompson was before the Court for sentencing. The presiding judge was the same judge who had accepted Respondent's client's guilty plea, and to whom the client at the time of his plea had falsely stated under oath his name and date of birth. Although at the time of sentencing the Respondent asked the judge to correct the record and pre-sentence investigation report regarding his client's true name and date of birth, the Respondent

failed to explain the circumstances of, and accept responsibility for, advising his client to perpetuate the client's identity as Christopher Troy Michael.

9. It was Respondent's client who informed the Court of the aforesaid advice regarding his identity given him at the time of his plea by the Respondent. The Court considered Mr. Thompson's false statements made at the time of his plea to have been an attempt to manipulate the Court, and took such false statements into account when sentencing Respondent's client to a term of incarceration.

II. NATURE OF MISCONDUCT

The Committee finds, by unanimous vote, that the following Rules of Professional Conduct have been violated:

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 8.4 Misconduct

It is professional misconduct for a lawyer to:

- (c) engage in professional conduct involving dishonesty, fraud, deceit or misrepresentation[.]

The Committee further finds that the Virginia State Bar failed to prove by clear and convincing evidence that the Respondent violated Rules of Professional Conduct 3.3(a)(2) and 8.4(b) as charged in the aforesaid Notice of Hearing.

III. PUBLIC REPRIMAND

Accordingly, it is the decision of the Committee, by unanimous vote, that Respondent

receive a Public Reprimand pursuant to Part 6, §IV, ¶ 13(H)(2)(1)(2)(d) of the Rules of the Supreme Court of Virginia, and the Respondent, Jerry Carlos Lyell, is hereby reprimanded.

IV. COSTS

Pursuant to Part 6, § IV, ¶ 13(B)(8)(c) of the Rules of the Supreme Court of Virginia, the Clerk of the Disciplinary System shall assess costs against the Respondent.

**FOURTH DISTRICT—SECTION I COMMITTEE
OF THE VIRGINIA STATE BAR**

By: 
David Edward Sher, Esq.
Chair

CERTIFICATE OF SERVICE

I certify that I have this 25th day of May, 2006, mailed a true and correct copy of the foregoing Committee Determination (Public Reprimand) by CERTIFIED MAIL, RETURN RECEIPT REQUESTED, to the Respondent, Jerry Carlos Lyell, Esq., at Suite 210, 200A Monroe Street, Rockville, MD 20850, his address of record with the Virginia State Bar.


Seth M. Guggenheim
Assistant Bar Counsel