

VIRGINIA:

BEFORE THE DISCIPLINARY BOARD  
OF THE VIRGINIA STATE BAR

IN THE MATTER OF  
ROBERT BRITTON ARMSTRONG

VS  
VS B Docket Nos.

09-080-078374  
09-080-077694

MEMORANDUM ORDER

This matter came on to be heard on June 15, 2010 by the Disciplinary Board of the Virginia State Bar (the Board) by teleconference upon an Agreed Disposition between the parties that was presented to a panel of the Board consisting of William C. Boyce, Jr., Bruce Taylor Clark, Glenn M. Hodge, Ms. Jody D. Katz, lay member, and William E. Glover, 1<sup>st</sup> Vice Chair presiding (the Panel).

Kathryn R. Montgomery, Assistant Bar Counsel, appeared as counsel for the Virginia State Bar, and the Respondent, Robert Britton Armstrong, appeared in person with counsel, S.D. Roberts Moore and Anthony M. Russell.

Pursuant to the Rules of the Supreme Court of Virginia, Part 6, Section IV, Paragraph 13-6.H, the Bar and Respondent entered into a written proposed Agreed Disposition and presented same to the Panel.

The Chair swore the Court Reporter and polled the members of the Panel to determine whether any member had a personal or financial interest that might affect or reasonably be perceived to affect his or her ability to be impartial in these matters. Each member, including the Chair, verified they had no such interests.

The Panel heard argument from counsel and reviewed Respondent's prior disciplinary

record with the Bar and thereafter retired to deliberate on the Agreed Disposition. Having considered all the evidence before it, a majority of the Panel accepted the Agreed Disposition.

### I. FINDINGS OF FACT

The Disciplinary Board finds the following facts by clear and convincing evidence:

1. During all times relevant, Respondent was duly licensed to practice law in the Commonwealth of Virginia.
2. In 2007, Respondent was appointed by the Circuit Court of Rockbridge County to represent the complainant, a female client (“Complainant”), on charges of possession of cocaine. On October 31, 2007, Complainant was found guilty of possession of a controlled substance. Complainant was sentenced to supervised probation.
3. Following this representation, Complainant called Respondent and they began a social relationship. In November 2007, Complainant and Respondent met at her uncle’s home and engaged in consensual sexual activity.
4. According to Complainant, she and Respondent engaged in consensual sexual activity one other time in 2007. The parties had no further contact of any kind until the spring of 2008.
5. In or about April 2008, Complainant was arrested for violation of probation and jailed in the Roanoke City Jail. At the time, she was pregnant (not by Respondent).
6. Thereafter, Complainant was transported to the Rockbridge Regional County Jail. Complainant retained Respondent to represent her. The fee was \$500, which Complainant’s boyfriend paid.

7. Respondent met with Complainant several times while she was at Rockbridge Regional County Jail. According to Complainant, during these meetings, Respondent made unwanted sexual advances toward her of a physical nature. According to Respondent, Complainant made sexual advances toward him during these meetings.
8. On August 4, 2008, Respondent represented Complainant at probation violation hearing. The Court ordered Complainant to complete a drug rehabilitation program.
9. Complainant did not complete the rehabilitation program and a second hearing was held on August 21, 2008. At this hearing, the Court imposed a sentence of two years in jail with one year suspended.
10. Complainant thereafter advised the jail authorities that Respondent had been making unwanted sexual advances of a physical nature during their meetings. A hidden surveillance camera was set up in an interview room at the jail. Complainant called Respondent and asked him to meet with her at the jail.
11. On August 28, 2008 and September 2, 2008, Respondent met with Complainant in the interview room with the hidden surveillance camera. During the August 28, 2008 meeting, the hidden camera recorded Respondent directing Complainant's hand toward his groin area and making a suggestive comment. Complainant refused, and Respondent immediately backed away and stated that it was "fine" and Complainant's "decision to make."
12. Thereafter, Respondent was arrested. On December 3, 2008, Respondent pled no contest to misdemeanor sexual assault and received a sentence of six months in jail,

with all but 30 days suspended, and a fine of \$500. Respondent has since paid the fine and served his time in jail.

## II. NATURE OF MISCONDUCT

The Disciplinary Board finds that such conduct by Robert Britton Armstrong constitutes misconduct in violation of 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;

## III. IMPOSITION OF SANCTION

Having considered all the evidence before it and determined to accept the Agreed Disposition, the Disciplinary Board **ORDERS** that Respondent's license to practice law be suspended for thirty (30) days beginning June 25, 2010.

It is further **ORDERED** that Respondent must comply with the requirements of Part Six, Section IV, Paragraph 13-29 of the Rules of the Supreme Court of Virginia. The Respondent shall forthwith give notice by certified mail, return receipt requested, 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 client. Respondent shall give such notice within 14 days of the effective date of the suspension, and make such arrangements as are required herein

within 45 days of the effective date of the suspension. The Respondent shall also furnish proof to the Bar within 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 the Respondent is not handling any client matters on the effective date of the suspension, he shall submit an affidavit to that effect to the Clerk of the Disciplinary System at the Virginia State Bar. 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, unless the Respondent makes a timely request for hearing before a three-judge court.

It is further **ORDERED** that costs shall be assessed by the Clerk of the Disciplinary System pursuant to the Rules of the Supreme Court of Virginia, Part Six, Section IV, Paragraph 13-9.E.

It is further **ORDERED** that the Clerk of the Disciplinary System shall send a certified copy of this order to Robert Britton Armstrong at his last address of record with the Virginia State Bar, 3 McDowell Street, Lexington, VA 24450, and by regular mail to his counsel, S.D. Roberts Moore and Anthony M. Russell, Gentry Locke Rakes & Moore, 10 Franklin Road, SW, P.O. Box 40013, Roanoke, VA 24038-0013, and hand delivered to Kathryn Montgomery, Assistant Bar Counsel, 707 East Main Street, Suite 1500, Richmond, VA 23219.

Medford W. Howard of Crane-Snead & Associates, Inc., 4914 Fitzhugh Avenue, Richmond, VA 23230, (804) 355-4335 was the court reporter for the hearing and transcribed the proceedings.

ENTERED: June 21, 2010

VIRGINIA STATE BAR DISCIPLINARY BOARD

By:

A handwritten signature in black ink, appearing to be 'WEG', written over a horizontal line.

William E. Glover, 1<sup>st</sup> Vice Chair