

VIRGINIA:

**BEFORE THE SECOND DISTRICT SUBCOMMITTEE
OF THE VIRGINIA STATE BAR**

**IN THE MATTER OF MARSHA DUNNING CARTER
VSB DOCKET NO. 06-021-0228**

Complainant: Terrence E. Reid, #315261

**SUBCOMMITTEE DETERMINATION
(PUBLIC ADMONITION WITH TERMS)**

On March 29, 2006, a duly convened Second District, Section I, Subcommittee consisting of James T. Lang , Esquire, David J. McDonald (Lay Member), and Paul K. Campsen, Esquire, presiding, considered the above-referenced matter and determined that an Agreed Disposition for a Public Admonition with Terms would be acceptable as an appropriate disposition if it were set for hearing before the District Committee.

The Respondent having tendered such an agreement, the Second District Subcommittee, therefore, pursuant to Part Six, Section IV, Paragraph 13(G)(1)(c)(1) of the Rules of the Supreme Court of Virginia, hereby serves upon the Respondent the following Public Admonition with Terms:

I. FINDINGS OF FACT

1. During all times relevant hereto, the Respondent, Marsha Dunning Carter, was an attorney licensed to practice law in the Commonwealth of Virginia.
2. On November 12, 2002, the Circuit Court for Northampton County sentenced Terrence E. Reid to fifteen years in prison for his three convictions of discharging a firearm from a motor vehicle.
3. Ms. Carter appealed the case to the Court of Appeals, where it was denied on February 24, 2004.
4. Ms. Carter timely filed a notice of appeal to the Supreme Court of Virginia on March 23, 2004.
5. Thereafter, Ms. Carter never filed a petition for appeal or took any further action to perfect the appeal.

6. Ms. Carter explained that she did not know that the petition for appeal was due within thirty days of the final order of the Court of Appeals, in accordance with the Rules of the Supreme Court of Virginia.

7. She said that she thought the process was the same as at the Court of Appeals, and that her time for filing the petition for appeal would run from the date that the record was forwarded to the Supreme Court, admitting that she had not consulted the Rules.

8. The following year, on January 6, 2005, having not heard about the status of his appeal, the client wrote to the Supreme Court of Virginia directly.

9. By letter, dated January 20, 2005, the Supreme Court informed him that nothing had been filed there on his behalf.

10. By letter, dated April 22, 2005, Ms. Carter told her client:

I have had no response from the Supreme Court, for our appeal of the rejection of our petition by the Court of Appeals. I will let you know as soon as I do.

She closed the letter by saying:

I will continue to keep you in my prayers and will notify you as soon as I receive anything from the Court.

11. At the time of her letter, fourteen months had passed since the Court of Appeals dismissed the appeal.

12. By letter, dated May 4, 2005, in response to a second inquiry from the client, the Supreme Court advised him again that nothing had been filed there, and advised him further about seeking habeas corpus relief for a delayed appeal.

13. The client then wrote to Ms. Carter, who responded by letter, dated June 18, 2005, admitting that she had not handled the matter properly, and not consulted the Rules.

14. Ms. Carter wrote to him again on July 10, 2005, enclosing a petition for a writ of habeas corpus alleging her own ineffectiveness, with instructions on how to file it so that the client could seek a delayed appeal.

15. Unfortunately, the client did not accept her advice, filing his own petition instead, which was dismissed because of a late filing.

II. NATURE OF MISCONDUCT

Counsel agree that the foregoing facts give rise to violations of the following 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 1.3 Diligence

- (a) A lawyer shall act with reasonable diligence and promptness in representing a client.

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.

III. PUBLIC ADMONITION WITH TERMS

Accordingly, it is the decision of the Subcommittee to offer the Respondent an opportunity to comply with certain terms and conditions, compliance with which will be a predicate for the disposition of a Public Admonition with Terms of this complaint. The terms and conditions are:

1. By January 1, 2007, the Respondent will attend one Continuing Legal Education (CLE) Course with a block of instruction on appellate practice for no annual CLE credit. The Respondent shall certify her attendance at said course in writing to the Bar Counsel's Office, Virginia State Bar, Suite 1500, 707 East Main Street, Richmond, Virginia 23219-2800, by January 1, 2007.

2. By August 1, 2006, the Respondent shall certify in writing to the Bar Counsel's Office that she has read and understands the following cases and Legal Ethics Opinions (LEOs):

Anders v. California, 386 U.S. 738 (1967), *Brown v. Warden*, 238 Va. 551, 385 S.E.2d 587 (1989), *Dodson v. Department of Corrections*, 233 Va. 303,

355 S.E.2d 573 (1987), *Kuzminski v. Commonwealth*, 8 Va. App. 106, 378

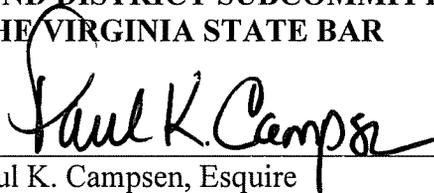
S.E.2d 632 (1989), LEO 1817, LEO 1558 and LEO 1122.

Upon satisfactory proof that the terms and conditions have been met, this matter shall be closed. If, however, the terms and conditions are not met by the dates set forth above, the District Committee will impose the alternate sanction: Certification for Sanction Determination at the Virginia State Bar Disciplinary Board.

In accordance with the Rules of the Virginia Supreme Court, Part 6: §IV, ¶13(B) (8) (c) (1), the Clerk of the Disciplinary System shall assess costs.

**SECOND DISTRICT SUBCOMMITTEE
OF THE VIRGINIA STATE BAR**

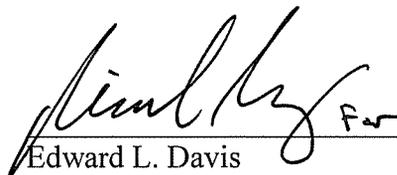
By



Paul K. Campsen, Esquire
Subcommittee Chair

CERTIFICATE OF SERVICE

I certify that on the 17th, day of July, 2006 I caused to be mailed by Certified Mail, Return Receipt Requested, a true and correct copy of the Subcommittee Determination (Public Admonition with Terms) to Marsha Dunning Carter, Esquire, the Respondent, at 14139 Lankford Highway, Post Office Box 630, Eastville, Virginia 23347-0630, her last address of record with the Virginia State Bar.



Edward L. Davis
Assistant Bar Counsel