

VIRGINIA:

BEFORE THE NINTH DISTRICT SUBCOMMITTEE MAR 21 2013  
OF THE VIRGINIA STATE BAR

IN THE MATTER OF  
Gregory Thomas Casker

VSB Docket Nos. 12-090-092144 and  
12-090-091336

SUBCOMMITTEE DETERMINATION  
(PUBLIC REPRIMAND WITH TERMS)

On March 11, 2013 a meeting was held in these matters before a duly convened Ninth District Subcommittee consisting of Christopher Anthony Corbett, William Ken Van Allen, Jr., and Steven Roger Grant. During the meeting, the Subcommittee voted to approve an Agreed Disposition for a Public Reprimand with Terms pursuant to Part 6, § IV, ¶ 13-15.B.4 of the Rules of the Supreme Court of Virginia. The Agreed Disposition was entered into by the Virginia State Bar, by Edward James Dillon, Jr., Assistant Bar Counsel, and Gregory Thomas Casker, Respondent, *pro se*.

WHEREFORE, the Ninth District Subcommittee of the Virginia State Bar hereby serves upon Respondent the following Public Reprimand with Terms:

**VSB Docket No. 12-090-092144**

FINDINGS OF FACT

1. At all times relevant to this matter, Respondent Gregory Thomas Casker ("Respondent") was an attorney licensed to practice law in the Commonwealth of Virginia.
2. Respondent was appointed by the Circuit Court of Pittsylvania County to represent Complainant Timothy W. Foster ("Complainant") in a criminal matter in 2010.
3. Respondent later appealed Complainant's conviction to the Court of Appeals of Virginia. The Court of Appeals denied the appeal in or about October 2011.

Respondent subsequently appealed the Court of Appeals' ruling to the Supreme Court of Virginia.

4. In a letter to Respondent dated November 9, 2011, Complainant requested that Respondent send him a copy of his file and the trial transcript (the "File") so that Complainant could prepare a petition for a writ of *habeas corpus*.
5. Complainant also sought the assistance of the Institutional Attorney for Dillwyn Correctional Center (the "Institutional Attorney"), where he was incarcerated, to obtain the File from Respondent.
6. In a letter dated February 29, 2012 to Respondent, the Institutional Attorney stated: "I am writing on behalf of Timothy Foster to request a complete copy of his file, including transcripts. If you will kindly forward the file to me, I will deliver the same to Mr. Foster."
7. On or about March 19, 2012, the Supreme Court of Virginia denied the appeal Respondent had filed on behalf of Complainant.
8. Respondent failed to send Complainant a copy of the Supreme Court of Virginia opinion denying the appeal or otherwise communicate with Complainant about the denial of the appeal by the Supreme Court of Virginia.
9. On or about June 1, 2012, Complainant filed a Complaint with the Virginia State Bar (the "Bar Complaint") stating that he had not received the File from Respondent. Complainant also stated in the Bar Complaint that he had received a copy of the Supreme Court of Virginia decision denying his appeal from the Institutional Attorney.
10. On or about June 29, 2012, Respondent mailed a copy of the File to Complainant. In the transmittal letter, Respondent stated: "I apologize for the delay in providing these documents to you."

#### NATURE OF MISCONDUCT

Such conduct by Respondent constitutes misconduct in violation of the following provisions of the Rules of Professional Conduct:

#### **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.

#### **RULE 1.16    Declining or Terminating Representation**

(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 handling records as indicated in paragraph (e).

(e) All original, client-furnished documents and any originals of legal instruments or official documents which are in the lawyer's possession (wills, corporate minutes, etc.) are the property of the client and, therefore, upon termination of the representation, those items shall be returned within a reasonable time to the client or the client's new counsel upon request, whether or not the client has paid the fees and costs owed the lawyer. If the lawyer wants to keep a copy of such original documents, the lawyer must incur the cost of duplication. Also upon termination, the client, upon request, must also be provided within a reasonable time copies of the following documents from the lawyer's file, whether or not the client has paid the fees and costs owed the lawyer: lawyer/client and lawyer/third-party communications; the lawyer's copies of client-furnished documents (unless the originals have been returned to the client pursuant to this paragraph); transcripts, pleadings and discovery responses; working and final drafts of legal instruments, official documents, investigative reports, legal memoranda, and other attorney work product documents prepared or collected for the client in the course of the representation; research materials; and bills previously submitted to the client. Although the lawyer may bill and seek to collect from the client the costs associated with making a copy of these materials, the lawyer may not use the client's refusal to pay for such materials as a basis to refuse the client's request. The lawyer, however, is not required under this Rule to provide the client copies of billing records and documents intended only for internal use, such as memoranda prepared by the lawyer discussing conflicts of interest, staffing considerations, or difficulties arising from the lawyer-client relationship. The lawyer has met his or her obligation under this paragraph by furnishing these items one time at client request upon termination; provision of multiple copies is not required. The lawyer has not met his or her obligation under this paragraph by the mere provision of copies of documents on an item-by-item basis during the course of the representation.

**VSB Docket No. 12-090-091336**

#### FINDINGS OF FACT

1. At all times relevant to this matter, Respondent Gregory Thomas Casker ("Respondent") was an attorney licensed to practice law in the Commonwealth of Virginia.
2. Respondent was appointed by the Circuit Court of the City of Danville to represent Complainant Bruce E. Hairston ("Complainant") in a criminal matter.
3. Respondent subsequently appealed Complainant's conviction to the Court of Appeals of Virginia. On or about February 7, 2012, the Court of Appeals of Virginia denied the appeal.
4. Respondent failed to inform Complainant of the denial of his appeal by the Court of Appeals of Virginia.
5. As a result, Complainant was unable to timely appeal the ruling of the Court of Appeals of Virginia to the Supreme Court of Virginia.
6. On or about March 22, 2012, Complainant filed a Complaint with the Virginia State Bar (the "Bar Complaint") stating that he had not heard from Respondent since the trial of the underlying criminal matter.

7. Upon receipt of the Bar Complaint, Respondent communicated with Complainant about the status of the appeal and, at the request of Complainant, filed a Motion for Delayed Appeal and affidavit of counsel with the Supreme Court of Virginia.
8. In an order dated August 31, 2012, the Supreme Court of Virginia granted the Motion for Delayed Appeal.

#### NATURE OF MISCONDUCT

Such conduct by Respondent constitutes misconduct in violation of the following provisions of the Rules of Professional Conduct:

#### **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.

#### PUBLIC REPRIMAND WITH TERMS

Accordingly, having approved the Agreed Disposition, it is the decision of the Subcommittee to impose a Public Reprimand with Terms. The terms are:

1.     For a period of three (3) years following service of the Subcommittee Determination in these matters, Respondent shall not engage in any conduct that violates the Virginia Rules of Professional Conduct, including but not limited to Rules of Professional Conduct 1.3 and 1.4 and any amendments to the Rules of Professional Conduct, and/or which violates any analogous provisions, and any amendments thereto, of the disciplinary rules of another jurisdiction in which Respondent may be admitted to practice law. The terms contained in this paragraph shall be deemed to have been violated when any ruling, determination, judgment, order, or decree has been issued against Respondent by a disciplinary tribunal in Virginia or elsewhere, containing a finding that Respondent has violated one or more provisions of the Rules of Professional Conduct referred to above, provided, however, that the conduct upon which such finding was based occurred within the period referred to above, and provided, further, that such ruling has become final.
2.     On or before one year following service of the Subcommittee Determination in these matters, Respondent shall complete a continuing legal education course approved by the Virginia State Bar in the subject of law office management, such as the Virginia

State Bar Solo and Small-Firm Practitioner Forums. Respondent's continuing legal education attendance obligation set forth in this paragraph shall not be applied toward his Mandatory Continuing Legal Education requirement in Virginia or any other jurisdictions in which Respondent may be licensed to practice law. Respondent shall certify his compliance with the terms set forth in this paragraph by delivering a fully and properly executed Virginia MCLE Board Certification of Attendance to Assistant Bar Counsel Edward J. Dillon or his designee, promptly following his attendance of each such CLE program(s).

If the terms are not met by the time specified, pursuant to Part 6, § IV, ¶ 13-15.F of the Rules of the Supreme Court of Virginia, the District Committee shall hold a hearing and Respondent shall be required to show cause why the District Committee should not issue a Certification for Sanction Determination pursuant to Part 6, § IV, ¶¶ 13-15.F and 13-15.G of the Rules of the Supreme Court of Virginia. Any proceeding initiated due to failure to comply with terms will be considered a new matter, and an administrative fee and costs will be assessed.

Pursuant to Part 6, § IV, ¶ 13-9.E. of the Rules of the Supreme Court of Virginia, the Clerk of the Disciplinary System shall assess costs.

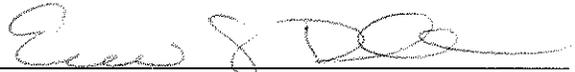
NINTH DISTRICT SUBCOMMITTEE  
OF THE VIRGINIA STATE BAR



Steven Roger Grant  
Subcommittee Chair

CERTIFICATE OF MAILING

I certify that on March 21, 2013, a true and complete copy of the Subcommittee Determination (Public Reprimand With Terms) was sent by certified mail to Gregory Thomas Casker, Respondent, at PO Box 1095, Chatham, VA 24531, Respondent's last address of record with the Virginia State Bar.



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Edward James Dillon, Jr.  
Assistant Bar Counsel