

VIRGINIA :

BEFORE THE THIRD DISTRICT COMMITTEE SECTION III
OF THE VIRGINIA STATE BAR

IN THE MATTER OF
CHRISTOPHER J. COLLINS

VSB Docket No. 07-033-070911

DISTRICT COMMITTEE DETERMINATION
(PUBLIC DISMISSAL *DE MINIMIS*)

On November 4, 2008 a hearing in this matter was held before a duly convened Third District Committee Section III panel consisting of Dennis R. Kiker, Chair, William S. Francis, Esquire, David P. Baugh, Esquire, Karen M. Adams, Esquire, members of the Third District Section III Committee. William Manns, of the Third District Committee Section I, served as lay person pursuant to Part 6, Section IV, Paragraph 13.B.6.h of the Rules of the Virginia Supreme Court. Thomas O. Bondurant, Jr., Esquire, a member of the Third District Committee Section III, recused himself from hearing this matter pursuant to Part 6, Section IV, Paragraph 13.F.3.e.4 after he disclosed on the record that he had previously represented the Respondent.

Respondent appeared in person with his counsel, Craig S. Cooley. Paulo E. Franco, Jr., Assistant Bar Counsel appeared as counsel for the Virginia State Bar as did the Complainant, Mary P. Benjamin. The Chairman polled the panel members to determine whether any of them had a personal or financial interest that would prohibit them from serving and each responded that they did not. Thereafter, the Chair swore in the court reporter, and the parties presented their opening statements. The Bar presented its case in chief and called as its witnesses Mary Benjamin and Tiara Peoples, Complainant's niece. The Bar moved into evidence, without objection, its Exhibit 1, which consisted of various photographs of Ms. Benjamin taken by the

Respondent. At the conclusion of the Bar's evidence, Respondent moved to strike each of the charges of Misconduct contained in the Charge of Misconduct dated August 1, 2008 and the parties presented argument. At the conclusion of argument, the panel retired to deliberate. After their deliberation, the panel announced in open session that the Bar had failed to prove by clear and convincing evidence violations of Rules of Professional Conduct 1.3.c, 1.4.a and 1.7.a.2 and granted the Respondent's motion to strike those rule violations. The panel thereafter announced that viewing the evidence in the light most favorable to the Bar, that it had made out a prima facie case of a violation of Rule of Professional Conduct 8.4.b and denied the Respondent's motion to strike that rule violation.

The Respondent then presented evidence in his case in chief, consisting of witnesses George H. Martin, Jr. and Respondent, and its Exhibits, to which the Bar's objection as to relevancy to Respondent's Exhibit 7 was overruled. Respondent also called Wade Kizer, Esquire as a character witness, out of turn by agreement of the parties, in order to accommodate Mr. Kizer's schedule. Respondent then moved to strike the remaining Rule violation at the conclusion of his evidence. The parties presented argument and the panel thereafter retired to deliberate. After their deliberation, the panel announced in open session that it denied the motion to strike. The parties thereafter gave closing arguments at which time the panel announced that it had found that the Bar had proved its case by clear and convincing evidence with respect to the remaining charge and that Respondent violated Rule 8.4.b.

The panel then proceeded to a hearing to determine an appropriate sanction. The Bar presented its sole Witness, Mary Benjamin. The Respondent thereafter presented Michael Herring, Esquire and Respondent, in addition to the testimony of Wade Kizer. After closing arguments of the parties, the panel retired to deliberate to determine an appropriate sanction. At

the conclusion of its deliberations, the Chairman announced that the panel voted to impose the sanction of a Public Dismissal *De Minimis*.

Pursuant to Part 6, Section IV, Paragraph 13.H.2.1.(2)(a) of the Rules of the Virginia Supreme Court, the Third District Committee, Section III of the Virginia State Bar hereby serves upon the Respondent the following Public Dismissal *De Minimis*, which outlines the following findings of fact that the Bar proved by clear and convincing evidence.

I. FINDINGS OF FACT

1. At all times relevant hereto, Christopher J. Collins ("Respondent"), has been an attorney licensed to practice law in the Commonwealth of Virginia.
2. Respondent was admitted to the practice of law on May 18, 1977.
3. On March 7, 2006, Mary L. Benjamin was arrested and charged with aggravated malicious wounding. The charges were pending in the Henrico County Circuit Court.
4. Ms. Benjamin retained Respondent and paid him what she believes was a retainer of \$1,850.00.
5. On March 14, 2006, pursuant to a motion Respondent filed on her behalf, Ms. Benjamin was released on bond.
6. Ms. Benjamin subsequently met with Respondent at his office for several meetings. During those meetings, she stressed to Respondent that she could not go to jail because she could not leave her children. She also related to Mr. Collins several other factors that were causing stress in her life, including the fact that she had lost her job as a result of the charges.
7. In May of 2006 prior to a hearing on her case, Ms. Benjamin met Respondent at his office on a Saturday.
8. During this meeting, Ms. Benjamin and Respondent discussed her case and also discussed that the charges carried with them a possibility of incarceration for up to twenty years.
9. Early in July of 2006, Ms. Benjamin met Respondent in his office again on a Saturday to discuss her case.
10. During that appointment, Respondent advised Ms. Benjamin that if she elected to have a jury trial, they could recommend a maximum sentence of twenty years.

11. Ms. Benjamin became extremely upset at the prospect of a twenty year jail sentence and began crying.

12. When Ms. Benjamin started crying, Respondent left his office and came back with a camera.

13. Respondent began taking Ms. Benjamin's photographs.

14. Ms. Benjamin did not object to being photographed.

15. Ms. Benjamin estimated that she spent approximately half an hour "modeling" for Respondent. Once the filming began, Respondent did not discuss anything about Ms. Benjamin's case with her.

16. While the photographs did not contain any nudity or pornography, they were inappropriate in the context of the current attorney client relationship.

17. At a subsequent meeting prior to trial, Respondent gave Ms. Benjamin the pictures and negatives of the photos Respondent had taken of her.

18. The District Committee finds that in taking the photographs, the Respondent exercised poor judgment which reflects on his fitness to practice law, and also violated the attorney-client trust, which reflects on his trustworthiness.

19. The District Committee further finds that while the photographs were inappropriate, they did not impact upon Respondent's performance in representing his client.

II. NATURE OF MISCONDUCT

Such conduct by Christopher J. Collins constitutes Misconduct in violation of the following provisions of the Rules 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.

* * * *

Taking Ms. Benjamin's photographs under the prevailing circumstances was a deliberately wrongful act, and doing so reflected adversely on Mr. Collins' trustworthiness, in that it violated the foundation of trust between an attorney and his client, as well as on Mr. Collins' fitness to practice law, as it demonstrated a lack of good judgment.

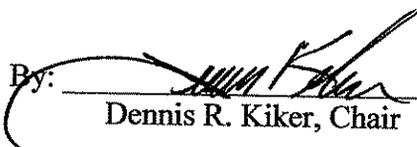
III. DISMISSAL DE MINIMIS

Accordingly, it is the decision of the Third District Committee Section III that Respondent receive a Dismissal *De Minimis* pursuant to Paragraph 13.H.2.1.(2)(a) of the Rules of Court.

The District Committee has taken into account various factors in determining the sanction it imposes, including but not limited to the impact of Respondent's conduct upon the public, the impact of Respondent's action in properly representing his client, the Respondent's standing in the community and the fact that Respondent's prior record consisted only of two dismissals *de minimis*, which occurred over twenty-six years prior to the hearing.

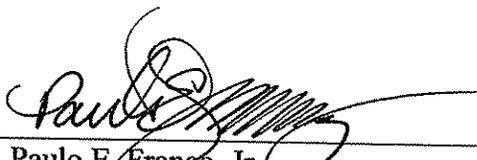
Pursuant to Paragraph 13.B.8.c., the Clerk of the Disciplinary System shall assess costs.

THIRD DISTRICT COMMITTEE, SECTION III
OF THE VIRGINIA STATE BAR

By: 
Dennis R. Kiker, Chair

CERTIFICATE OF MAILING

I certify that on this 4th day of December, I caused to be mailed by Certified Mail, Return Receipt Requested, a true and complete copy of the District Determination Public Dismissal *De Minimis* to Christopher J. Collins, Respondent, at 304 East Main Street, Richmond, VA 23219-3820, his last address of record with the Virginia State Bar, and to Craig S. Cooley, Esquire, Respondent's Counsel, at 3000 Idlewood Avenue, P.O. Box 7268, Richmond, VA 23221-0268.


Paulo E. Franco, Jr.
Assistant Bar Counsel