

**VIRGINIA: BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD**

**IN THE MATTER OF  
ANTHONY GEROME DAVIS**

**VSB Docket No. 09-010-076193**

**MEMORANDUM ORDER**

This matter came on to be heard on October 16, 2009 by the Disciplinary Board of the Virginia State Bar (the Board) by teleconference upon an Agreed Disposition between the parties, which was presented to a panel of the Board consisting of John Casey Forrester, Raighne C. Delaney, Russell Updike, Stephen Wannall (lay member) and William H. Monroe, Jr., Chair presiding (the Panel).

Richard E. Slaney, Assistant Bar Counsel, appeared as counsel for the Virginia State Bar, and Respondent Anthony Gerome Davis appeared in person *pro se*.

Pursuant to the Rules of the Supreme Court of Virginia, Part 6, Section IV, Paragraph 13-6(H), the Bar and Respondent Anthony Gerome Davis 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 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, the Panel accepted the Agreed Disposition.

### **I. FINDINGS OF FACT**

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

1. At all times relevant to this matter, the Respondent, Anthony Gerome Davis (Davis) was an attorney licensed to practice law in the Commonwealth of Virginia.
2. In 2008, Davis was employed as an Assistant Public Defender for the City of Hampton. The Hampton Public Defender's Office did not allow its attorneys to take any outside clients without requesting and receiving specific permission from the Public Defender. Davis was counseled about his failure to abide by this policy in April and May of 2008.
3. On or about July 2, 2008 Davis, without the knowledge or permission of the Hampton Public Defender, accepted one Marisa Morgan (Morgan) as a client in a custody matter pending in Virginia Beach. Morgan paid Davis \$1,500 by check no. 1884, representing an advance fee for the custody case. Davis did not deposit that check into any trust account.
4. Thereafter, Davis did little or no work on the matter, failed to enter an appearance in the pending case and failed to communicate with or respond to attempts to communicate from Morgan.
5. When Morgan learned Davis had not entered an appearance as counsel of record she demanded a refund, which Davis refused to provide.
6. Morgan sued Davis for return of the advance fee payment and got a judgment against Davis in Virginia Beach General District Court on September 6, 2008 for \$1,500 plus interest and costs. Davis has not paid that judgment.
7. Morgan filed a bar complaint against Davis and a letter was sent to Davis's address of record with the Bar enclosing the complaint; however, Davis failed to respond. Davis also failed to respond to the Bar investigator's attempts to interview him and to a document subpoena, and as a result his license has been under an interim suspension since November 13, 2008.

## II. NATURE OF MISCONDUCT

The Disciplinary Board finds that such conduct by Anthony Gerome Davis constitutes misconduct in violation of the following Rules of Professional Conduct:

### RULE 1.3 Diligence

- a (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.

### RULE 1.15 Safekeeping Property

- (a) All funds received or held by a lawyer or law firm on behalf of a client, other than reimbursement of advances for costs and expenses, shall be deposited in one or more identifiable escrow accounts maintained at a financial institution in the state in which the law office is situated and no funds belonging to the lawyer or law firm shall be deposited therein except as follows:
- (1) funds reasonably sufficient to pay service or other charges or fees imposed by the financial institution may be deposited therein; or
  - (2) funds belonging in part to a client and in part presently or potentially to the lawyer or law firm must be deposited therein, and the portion belonging to the lawyer or law firm must be withdrawn promptly after it is due unless the right of the lawyer or law firm to receive it is disputed by the client, in which event the disputed portion shall not be withdrawn until the dispute is finally resolved.

### 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).

## RULE 8.1 Bar Admission And Disciplinary Matters

An applicant for admission to the bar, or a lawyer in connection with a bar admission application, in connection with any certification required to be filed as a condition of maintaining or renewing a license to practice law, in connection with a disciplinary matter, shall not:

- (c) fail to respond to a lawful demand for information from an admissions or disciplinary authority, except that this Rule does not require disclosure of information otherwise protected by Rule 1.6; or....

### **III. IMPOSITION OF SANCTION**

Having considered all the evidence before it and determined to accept the Agreed Disposition, the Disciplinary Board **ORDERS** that the Respondent's license to practice law in the Commonwealth of Virginia shall be suspended for eight (8) months, effective on October 19, 2009. As an agreed term, Respondent shall refund to the Complainant, Marisa Morgan, the sum of \$1,500, plus court costs and interest on the judgment she obtained, on or before February 28, 2010. If the Respondent fails to make that refund in a timely fashion, the Board shall impose a four year suspension as an alternative sanction pursuant to Rules of Court, Part Six, Section IV, Paragraph 13-18(O).

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 clients.

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.

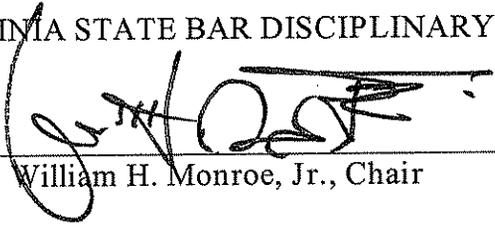
It is further **ORDERED** that costs shall be assessed by the Clerk of the Disciplinary System pursuant to the Rules of the Supreme Court of Virginia, Part Six, Section IV, Paragraph 13-9(E).

It is further **ORDERED** that the Clerk of the Disciplinary System shall send a copy of this order by certified, return receipt to Anthony Gerome Davis at his last address of record with the Virginia State Bar 29 Gunter Court, Hampton, VA 23666 and by hand-delivery to Richard E. Slaney, Assistant Bar Counsel, 707 E. Main Street, Suite 1500, Richmond, VA 23219.

Tracey J. Johnson, Chandler & Halasz, P.O. Box 9349, Richmond, VA 23227 was the court reporter for the hearing and transcribed the proceedings.

ENTERED: October 29, 2009

VIRGINIA STATE BAR DISCIPLINARY BOARD

By: 

William H. Monroe, Jr., Chair