

VIRGINIA:

BEFORE THE SECOND DISTRICT SUBCOMMITTEE
OF THE VIRGINIA STATE BAR

IN THE MATTER OF
JOHNNYE BELINDA DUFF

VS B Docket No. 09-021-078529

SUBCOMMITTEE DETERMINATION
(PUBLIC REPRIMAND WITHOUT TERMS)

On October 28, 2009, a meeting in this matter was held before a duly convened Second District Subcommittee consisting of Mary M. Kellam, Esquire, Presiding Chair, Beverly P. Leatherbury, Esquire, Member, and Emanuel W. Michaels, Lay Member, who considered and unanimously accepted an Agreed Disposition in the above-referenced matter.

Pursuant to Part 6, Section IV, Paragraph 13-15.B.4 of the Rules of the Virginia Supreme Court, the Second District Subcommittee of the Virginia State Bar hereby serves upon Respondent the following Public Reprimand Without Terms:

I. FINDINGS OF FACT

1. At all times relevant hereto, Respondent was an attorney licensed to practice law in the Commonwealth of Virginia.
2. Between the fall of 2008 and early 2009, the Norfolk Circuit Court Clerk's Office ("Clerk's Office") was contacted by several clients of Respondent for whom Respondent had filed divorce suits in the Norfolk Circuit Court that remained pending. These clients complained that Respondent had failed to timely pursue their cases or communicate with them.
3. Among the seven clients who contacted the Clerk's Office were the following:
 - Derrick Williams ("Mr. Williams") hired Respondent in July 2008 to pursue a no-fault divorce and advised Respondent that he needed it completed quickly since he planned to remarry in October 2008. According to Mr. Williams, Respondent told him that he could get the divorce done within 6-8 weeks. When several weeks had passed and the divorce suit had not been filed,

Mr. Williams called the Clerk's Office and was told that that no such filing had been received. Shortly thereafter, Respondent did get a divorce complaint filed, but did not seek to have the defendant served until November 2008. Mr. Williams subsequently attempted to contact Respondent on her cell phone and was unable to reach her or leave a message because her message mailbox was full. In January 2009, Mr. Williams wrote a letter to the Honorable Everett A. Martin, Jr., Chief Judge of the Norfolk Circuit Court ("Judge Martin"), asking that Respondent be removed as his counsel. Shortly thereafter, another attorney took over the representation, and a divorce decree was entered on March 4, 2009.

- Thomas P. Wroblewski, Sr. ("Mr. Wroblewski") initially met with Respondent on August 15, 2008 and hired her to obtain a no-fault divorce on his behalf. According to Mr. Wroblewski, Respondent told him she would get his divorce filed by August 19, 2008. During the first half of September, Mr. Wroblewski made several attempts to contact Respondent, who finally called him on September 18, 2008 and advised that she had filed the divorce case. The Complaint for Divorce was actually not filed until November 10, 2008. In mid-October, Mr. Wroblewski had left several messages for Respondent that were not returned. When he finally spoke with Respondent on October 22, 2008, she told him that the "papers" had been sent to Indiana for service. He tried unsuccessfully to contact Respondent approximately 30 times between October 30, 2008 and January 15, 2009. At the suggestion of the Clerk's Office, he sent a letter to Judge Martin in early February 2009 advising of the absence of progress in his divorce case and Respondent's lack of communication.

- Rosemarie Day ("Ms. Day") hired Respondent in either late August or early September 2008 to represent her in a contested divorce and child custody case. According to Ms. Day, Respondent was an hour and a half late for the initial meeting. After Respondent later failed to show up at a meeting scheduled the day prior to a hearing in the custody matter, Ms. Day terminated Respondent's representation and requested a partial refund which Respondent refused to give. Ms. Day hired another attorney to represent her in the matters, who made unsuccessful attempts between late January and mid-February 2009 to have Respondent endorse a substitution

of counsel order. Ultimately, it was necessary for a hearing to be set in order for a substitution order to be entered.

4. In response to the complaints received against Respondent by the Clerk's Office, Judge Martin sent a letter to Respondent dated February 3, 2009 requesting that she contact his office to schedule an appointment to meet with him to discuss Respondent's representation of clients in the Norfolk Circuit Court. This complaint originated after Respondent failed to respond to Judge Martin's letter.

5. In her answer to this complaint, Respondent acknowledged that during the time period in question, she was distracted from practicing law by several circumstances, i.e., that: i) she returned to working as a nurse on a full-time basis in the spring of 2008, which made it impossible for her to speak with her clients or even check her cell phone messages during regular business hours; and ii) she experienced certain personal problems. At some stage, after realizing that her situation was "not realistic" and "not fair to the clients," she asked another attorney to take over her cases. She stated that she did not respond to Judge Martin's February 3, 2009 letter because she was "not checking my mail frequently" and was out of town.

II. NATURE OF MISCONDUCT

Such conduct by Johnnye Belinda Duff constitutes misconduct in violation of the following provisions of the Rules of Professional Conduct:

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 REPRIMAND WITHOUT TERMS

Accordingly, it is the decision of the subcommittee to accept the Agreed Disposition and impose a Public Reprimand Without Terms and Respondent is hereby so reprimanded.

Pursuant to Paragraph 13-9.E., the Clerk of the Disciplinary System shall assess costs.

SECOND DISTRICT SUBCOMMITTEE
OF THE VIRGINIA STATE BAR

By Mary M Kellam
Mary M. Kellam, Esquire
Subcommittee Chair

CERTIFICATE OF SERVICE

I certify that on 16th day of DECEMBER, 2009, I caused to be mailed by Certified Mail, Return Receipt Requested, a true and correct copy of the Subcommittee Determination (Public Reprimand Without Terms) to Johnnye Belinda Duff, Esquire, Respondent, at, 106-220, 2085 Lynnhaven Pkwy., Virginia Beach, VA 23456, her last address of record with the Virginia State Bar.

M. Brent Saunders
M. Brent Saunders, Assistant Bar Counsel