

VIRGINIA:

BEFORE THE TENTH DISTRICT—SECTION II SUBCOMMITTEE
OF THE VIRGINIA STATE BAR

IN THE MATTER OF
James Douglas Fleenor

VSB Docket No. 13-102-092690

SUBCOMMITTEE DETERMINATION
(PUBLIC REPRIMAND WITHOUT TERMS)

On April 29, 2013, a meeting was held in this matter before a duly convened Tenth District—Section II Subcommittee consisting of Lisa Ann McConnell, Jaculyn Collins Hanrahan, and Charles Adam Kinser. During the meeting, the Subcommittee voted to approve an Agreed Disposition for a Public Reprimand without 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 James Douglas Fleenor, Respondent, and Thomas Ralph Scott, Jr., Esquire, counsel for Respondent.

WHEREFORE, the Tenth District—Section II Subcommittee of the Virginia State Bar hereby serves upon Respondent the following Public Reprimand without Terms:

FINDINGS OF FACT

1. At all relevant times, Respondent James Douglas Fleenor (“Respondent”) was an attorney licensed to practice law in the Commonwealth of Virginia.
2. Respondent was retained on or about May 15, 2012 for \$1,500 to represent a client (the “Client”) in an appeal of a custody matter (the “Custody Appeal”). The Custody Appeal was set to be heard by the Circuit Court for the City of Bristol (the “Court”) on July 16, 2012.
3. At no time did Respondent note his appearance in the Custody Appeal with the Court or otherwise notify the Court that he represented Client. Respondent also did not notify opposing counsel or the guardian *ad litem* that he had been retained by Client to represent Client in the Custody Appeal.

4. On June 18, 2012, Client and her husband arrived at Respondent's office to meet with Respondent in regard to the Custody Appeal. Shortly after the June 18, 2012 meeting began, Respondent complained of pain in his feet and stated that he needed to reschedule the meeting.
5. Client and her husband rescheduled their meeting with Respondent for the following week. The meeting was subsequently rescheduled for July 5, 2012.
6. On July 5, 2012, Client and her husband arrived at Respondent's office for their meeting. Respondent advised Client that he had another appointment scheduled at the same time and could not meet with them. Client and her husband then met with Respondent's assistant (the "Assistant") and provided the Assistant with information pertaining to the Custody Appeal. At the conclusion of their meeting with the Assistant, the Assistant stated that Respondent wanted to meet with Client and her husband on July 12, 2012 to prepare for the Custody Appeal.
7. On July 12, 2012, the Assistant called Client shortly before Client's scheduled meeting with Respondent and told Client that Respondent could not keep the appointment with Client. The Assistant told Client that Respondent would like to meet with Client on July 16, 2012, shortly before the hearing in the Custody Appeal.
8. Client arranged for her witnesses to meet with her and Respondent at the courthouse on July 16, 2012 prior to the hearing in the Custody Appeal.
9. On the morning of July 16, 2012, the Assistant called Client and told Client that Respondent was sick, that Respondent had gone to the doctor's office, and that Respondent might not be able to attend the hearing in the Custody Appeal scheduled for later that day. Client waited at her house for further instructions.
10. According to a July 16, 2012 note (the "Doctor's Note") provided by Respondent to the Virginia State Bar, Respondent was under the care of a physician on July 16, 2012. The Doctor's Note states that the nature of the illness is "[d]izziness" and that Respondent would be able to return to work on July 17, 2012.
11. Later in the morning of July 16, 2012, the Assistant called Client and told Client that Respondent's doctor would not allow Respondent to go to Court that day. The Assistant also told Client that Client did not need to go to Court that day for the hearing in the Custody Appeal.
12. The Assistant later called Client again on July 16, 2012 and told Client that the Assistant was waiting to receive the Doctor's Note, that the Assistant would take the Doctor's Note to the Court, and that the Assistant would call Client with a new court date for the hearing in the Custody Appeal.
13. Later on July 16, 2012, the Assistant delivered the Doctor's Note to the Court.
14. The Court held the hearing in the Custody Appeal on July 16, 2012. Neither Respondent nor Client was present at the July 16, 2012 hearing in the Custody Appeal. The Court subsequently dismissed the Custody Appeal.
15. On July 17, 2012, Client learned that the Custody Appeal had been dismissed. Client then called Respondent's office to discuss her options in regard to the Custody Appeal. During the course of their conversation, Respondent told Client he would refund her money and ended the call.
16. Client went to Respondent's office on July 18, 2012, where the Assistant told Client that Respondent had directed her to refund \$1,400 of the \$1,500 retainer and provided Client with a check from Respondent's trust account for \$1,400.

17. Client, with the assistance of another attorney, subsequently filed a motion (the "Motion") with the Court seeking to have the Custody Appeal re-opened and re-heard.
18. In a letter dated August 8, 2012, the Court denied the Motion, stating in part: "The Motion is denied. The Court took evidence at the hearing on July 16, 2012, from the father of the two boys. He traveled to Bristol from the state of Washington to protect his interest."

NATURE OF MISCONDUCT

Such conduct by Respondent 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.

PUBLIC REPRIMAND WITHOUT TERMS

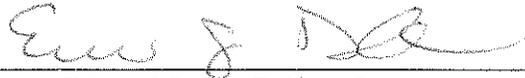
Accordingly, having approved the Agreed Disposition, it is the decision of the Subcommittee to impose a Public Reprimand without Terms and James Douglas Fleenor is hereby so reprimanded. Pursuant to Part 6, § IV, ¶ 13-9.E of the Rules of the Supreme Court of Virginia, the Clerk of the Disciplinary System shall assess costs.

TENTH DISTRICT—SECTION II
SUBCOMMITTEE OF THE
VIRGINIA STATE BAR

By: 
Lisa Ann McConnell
Subcommittee Chair

CERTIFICATE OF MAILING

I certify that on May 13, 2013, a true and complete copy of the Subcommittee Determination (Public Reprimand without Terms) was sent by certified mail to James Douglas Fleenor, Respondent, at 1221 Fairmount Avenue, Bristol, Virginia 24201-2522, Respondent's last address of record with the Virginia State Bar, and by first class mail, postage prepaid to Thomas Ralph Scott, Jr., counsel for Respondent, at Street Law Firm, LLP, 1131 Plaza Drive, PO Box 2100, Grundy, VA 24614.



Edward James Dillon, Jr.
Assistant Bar Counsel