

VIRGINIA:

BEFORE THE SECOND DISTRICT SUBCOMMITTEE
OF THE VIRGINIA STATE BAR

IN THE MATTERS OF
LERON WILLIAM GILCHRIST

VSB Docket No. 09-021-076455

VSB Docket No. 09-021-079350

SUBCOMMITTEE DETERMINATION
(PUBLIC REPRIMAND WITH 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, during which consideration of an Agreed Disposition in the above-referenced matter was discussed. It was the unanimous decision of the Subcommittee to accept the Agreed Disposition.

Pursuant to Part 6, Section IV, Paragraph 13-15.B.4 of the Rules of the Supreme Court of Virginia, the Second District Subcommittee of the Virginia State Bar hereby serves upon the Respondent the following Public Reprimand with Terms:

I. FINDINGS OF FACT

1. At all times relevant hereto, Respondent has been an attorney licensed to practice law in the Commonwealth of Virginia.

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2. In August 2007, Respondent was court-appointed to represent the Complainant, Deshawn Lewis ("Mr. Lewis"), on multiple criminal charges in the Norfolk Circuit Court. Mr. Lewis had been arrested on May 28, 2007 on charges of Robbery, Use of a Firearm in Commission of a Felony, Wearing a Mask in Public and Property Damage, and was later charged with Possession of a Firearm By a Convicted Felon. Trial was initially set for November 2007, but was not held until April 4, 2008, when a jury convicted Mr. Lewis of all charges. On July 3, 2008, the court imposed a total active prison sentence of 11 years.

3. Between the initial trial date in November 2007 and the date the trial actually commenced on April 3-4, 2008, Respondent met with Mr. Lewis on only one occasion, April 1, 2008. During the intervening time period, Mr. Lewis sent Respondent letters in which he made inquiries which Respondent addressed only when he met with Mr. Lewis on April 1, 2008.

4. Following Mr. Lewis' convictions and sentencing, Respondent was court-appointed to represent him on appeal. Respondent timely noted and filed a petition for appeal. By order entered on February 11, 2009, the Court of Appeals of Virginia denied the petition for appeal on the basis that the sole question presented, i.e., the sufficiency of the evidence supporting the convictions, was not preserved since no motion to strike or motion to set aside the verdict was made on behalf of Mr. Lewis at trial. Respondent did not timely notify Mr. Lewis of the denial of the appeal or advise Mr. Lewis of his additional appellate rights, including his right to pursue a delayed appeal pursuant to §19.2-321.2 of the Code of Virginia, 1950, as amended, or of the six-month deadline for doing so.

5. Following the denial of the appeal on February 11, 2009, Respondent took no further action on behalf of Mr. Lewis, thereby terminating his representation of Mr. Lewis without providing any notice thereof to Mr. Lewis.

6. Respondent's failure to timely notify Mr. Lewis of the denial of his appeal caused Mr. Lewis to suffer prejudice in the form of forfeiting his rights to: 1) demand review by a three-judge panel pursuant to § 17.1-407(D) of the Code of Virginia, 1950, as amended, and Rule 5A:15A of the Rules of the Supreme Court of Virginia; and/or 2) appeal the dismissal to the Supreme Court of Virginia.

7. Respondent's failure to fully and timely advise Mr. Lewis of his right to pursue a delayed appeal pursuant to §19.2-321.2 of the Code of Virginia, 1950, as amended, caused Mr. Lewis to suffer prejudice in the form of forfeiting his right to pursue that statutory relief.

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8. Respondent was court-appointed to represent William R. Croom ("Mr. Croom") at trial in the Norfolk Circuit Court on multiple criminal charges. In January 2007, Mr. Croom was convicted of robbery and conspiracy, and in May 2007 received an active prison sentence of almost seven years.

9. Following Mr. Croom's sentencing, Respondent was appointed to represent Mr. Croom on appeal. Respondent timely noted and filed a petition for appeal that was denied by the Court of Appeals of Virginia on December 12, 2007. In February 2008, Mr. Croom, having not been notified by Respondent of the denial of his appeal, wrote Respondent a letter in which he: i) asked for a status update of his appeal; and ii) instructed Respondent to demand review by a three-judge panel should the initial petition for appeal be denied and then proceed with an appeal to the Supreme Court of Virginia if the three-judge panel also denied his appeal. In response, Respondent wrote a letter to Mr. Croom dated February 27, 2008 in which he advised him that his appeal had been denied on December 12, 2007, and that the deadline for demanding review by a three-judge panel had expired.

10. Respondent did not advise Mr. Croom of his additional appellate rights, including his right to seek a delayed appeal pursuant to §19.2-321.2 of the Code of Virginia, 1950, as amended, or of the six-month deadline for doing so.

11. Following the denial of the appeal on December 12, 2007, Respondent took no further action on behalf of Mr. Croom, and thereby terminated his representation of Mr. Croom without providing any notice thereof to Mr. Croom.

12. In March 2008, Mr. Croom filed a *pro se habeas* petition with the Supreme Court of Virginia in which he alleged that Respondent had failed to complete the appeal process. By order entered on October 22, 2008, the Supreme Court of Virginia awarded the *habeas* petition with the consent of the Virginia Attorney General's Office on the ground that Mr. Croom had been denied his right of appeal.

13. Respondent's failure to timely notify Mr. Croom of the denial of his appeal caused Mr. Croom to suffer prejudice in the form of forfeiting his rights to: 1) demand review by a three-judge panel pursuant to § 17.1-407(D) of the Code of Virginia, 1950, as amended, and Rule 5A:15A of the Rules of the Supreme Court of Virginia; and/or 2) appeal the dismissal to the Supreme Court of Virginia.

14. Respondent's failure to fully and timely advise Mr. Croom of his right to pursue a delayed appeal pursuant to §19.2-321.2 of the Code of Virginia, 1950, as amended, caused Mr. Croom to suffer prejudice in the form of forfeiting his right to pursue that statutory relief.

II. NATURE OF MISCONDUCT

Such conduct by LeRon William Gilchrist constitutes misconduct in violation of the following provisions of the Rules of Professional Conduct:

VS B Docket No. 09-021-076455 and VS B Docket No. 09-021-079350:

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.

(b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

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 . . .

III. PUBLIC REPRIMAND WITH TERMS

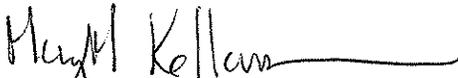
Accordingly, it is the decision of the Subcommittee to accept the Agreed Disposition of a Public Reprimand with Terms. The terms and conditions with which Respondent must comply are as follows:

1. Respondent shall review the following materials available through Virginia CLE: a) the video of the seminar conducted in 2004 titled "A Guide to Appellate Practice in Virginia;" and b) the book published in 2008 titled "Appellate Practice – Virginia and Federal Courts." Respondent shall, on or before January 15, 2010, certify in writing completion of this requirement to M. Brent Saunders, the Assistant Bar Counsel assigned to these cases; and
2. Respondent is placed on probation for a period of two (2) years from the date of the issuance of this determination. Respondent will not engage in professional misconduct as defined by the Virginia Rules of Professional Conduct during such probationary period. Any final determination that Respondent engaged in professional misconduct during this probationary period made by a District Subcommittee, District Committee, the Disciplinary Board, a Three-Judge Panel or the Supreme Court of Virginia shall conclusively be deemed to be a violation of this Term.

Upon satisfactory proof that such terms and conditions have been met, this matter shall be closed. If the terms and conditions are not met by the specified dates, the alternative disposition shall be a Certification for Sanction Determination pursuant to Rules of Court, Part Six, Section IV, Paragraph 13-15.G.

Pursuant to Part Six, Section IV, Paragraph 13-9.E. of the Rules of Court, the Clerk of the Disciplinary System shall assess costs.

SECOND DISTRICT SUBCOMMITTEE
OF THE VIRGINIA STATE BAR

By 

Mary M. Kellam, Esquire
Subcommittee Chair

CERTIFICATE OF SERVICE

I certify that on the 16th day of DECEMBER, 2009, I mailed by Certified Mail, Return Receipt Requested, a true and correct copy of the Subcommittee Determination (Public Reprimand with Terms) to LeRon William Gilchrist, Esquire, Respondent, at Suite 600, 800 East City Hall Avenue, Norfolk, VA 23510, Respondent's last address of record with the Virginia State Bar.



M. Brent Saunders, Assistant Bar Counsel