

SEP 19 2012

VIRGINIA:

**BEFORE THE CIRCUIT COURT FOR THE CITY OF RICHMOND**

**IN THE MATTER OF  
VAUGHAN CHRISTOPHER JONES**

**Case Number: CL12-2072**

**ORDER OF SUSPENSION WITH TERMS**

**THIS CAUSE** came to be heard on the 30th day of July, 2012, by a Three-Judge Circuit Court impaneled by the Supreme Court of Virginia on June 5, 2012, by designation of the Chief Justice of the Supreme Court of Virginia, pursuant to Section 54.1-3935 of the Code of Virginia (1950) as Amended, consisting of the Honorable Alfred D. Swersky, Retired Judge of the Eighteenth Judicial Circuit, the Honorable Jay T. Swett, Retired Judge of the Sixteenth Judicial Circuit, and the Honorable James D. Hawks, Chief Judge of the Third Judicial Circuit, designated Chief Judge.

The Virginia State Bar appeared through its Bar Counsel, Edward L. Davis. The Respondent attorney, Vaughan Christopher Jones, was duly noticed and appeared in person and by his attorney, Michael L. Rigsby, Esquire.

The Chief Judge polled the members of the Court as to whether any knew of any personal or financial interest or bias that would preclude the member from fairly hearing the matter, to which inquiry each member of the Court responded in the negative.

**WHEREUPON**, a hearing was conducted upon the Rule to Show Cause issued against the Respondent, Vaughan Christopher Jones, which Rule directed him to appear and to show cause why his license to practice law in the Commonwealth of Virginia should not be suspended, revoked, or otherwise sanctioned by reason of allegations of

ethical misconduct set forth in the Certifications issued by a subcommittee of the Third District Committee, Section III, of the Virginia State Bar.

The Court received Virginia State Bar Exhibits 1 through 15, Respondent's Exhibits 1 through 4, and stipulations of fact without objection. The parties made opening statements and the Court received the testimony of Benita Brown, Bryan Mangas, and the Respondent.

At the conclusion of all of the evidence, the parties made closing arguments, and the Court adjourned to deliberate the allegations of misconduct.

Upon due deliberation the Court found by unanimous decision that the bar had not proven by clear and convincing evidence violations of the Rules of Professional Conduct alleged in VSB Docket Number 10-033-084154, specifically, Rule 1.1 *Competence*, Rule 1.3(a) *Diligence*, Rules 3.4(d) and (g) *Fairness to Opposing Party and Counsel*, and Rule 8.4(b) *Misconduct*, and dismissed those allegations accordingly.

With respect to VSB Docket Number 10-033-084156, the parties stipulated to the following facts:

1. During all times relevant hereto, the Respondent, Vaughan Christopher Jones, has been an attorney licensed to practice law in the Commonwealth of Virginia.
2. In 2008 Rodney Clark was arrested while transporting 50 grams of crack cocaine in his semi tractor-trailer.
3. On September 26, 2008, Benita Brown, a friend and agent of Mr. Clark, hired Mr. Jones to defend Mr. Clark against multiple drug trafficking and conspiracy charges in federal court for a fee of \$10,000.
4. Although the criminal charges were pending in federal court, state authorities seized Mr. Clark's tractor-trailer and \$7,900 cash in his possession and commenced forfeiture proceedings in the Mecklenburg County Circuit Court. The purpose of those proceedings was to forfeit the tractor-trailer and cash on the basis that they were used in an unlawful drug transaction.

5. Mr. Clark advised Mr. Jones that he wanted to keep his tractor-trailer, which had a value of \$70,000.
6. In the federal case, Mr. Jones negotiated an agreement for a plea of guilty to one count of the indictment: possession with the intent to distribute more than 5 grams of cocaine base.
7. On November 17, 2008, the U.S. District Court (Eastern District of Virginia, Richmond Division) accepted the plea agreement and subsequently sentenced Mr. Clark to 168 months (14 years) in prison.
8. The plea agreement that Mr. Jones and Mr. Clark endorsed required Mr. Clark to forfeit all interest in drug related assets. Specifically, the agreement required Mr. Clark to "... waive all interest in the assets in any administrative or judicial forfeiture proceeding, whether criminal or civil, state or federal. The defendant agrees to consent to the entry of orders of forfeiture for such property...."
9. Mr. Clark paid Mr. Jones \$2,500 to contest the forfeiture proceedings in state court.
10. Mr. Jones asserted the plea agreement did not control the state forfeiture proceeding.
11. On April 24, 2009, the Circuit Court heard arguments in the forfeiture proceedings and ordered return of the \$7,900 in cash to Mr. Clark, but ordered forfeiture of Mr. Clark's semi tractor-trailer. The United States Attorney's Office employed Crane-Snead and Associates ("Crane-Snead") to report the trial in Mecklenburg County Circuit Court. Crane-Snead prepared a partial transcript of the proceedings for the United States Attorney's Office.
12. Mr. Jones did not order a transcript of the Mecklenburg County Circuit Court forfeiture hearing.
13. On May 4, 2009, Mr. Jones filed a notice of appeal of the forfeiture action to the Supreme Court of Virginia, indicating that he had ordered the transcript. Mr. Jones also paid the \$50 filing fee with the Supreme Court of Virginia on May 4, 2009, but otherwise took no further action in the matter.
14. Mr. Jones explained to the bar that he filed the notice of appeal as a courtesy only, that he had never been retained for the appeal.
15. Mr. Jones did not consider himself counsel of record for the appeal.
16. By letter dated October 20, 2009, the Supreme Court of Virginia notified the trial court that because no petition for appeal had been filed, it was returning the record to the trial court. Mr. Jones is shown as a courtesy copy recipient.

17. Mr. Jones avers that he did not respond to a letter dated March 5, 2010 from Mr. Clark because he never received it.
18. By letter dated March 12, 2010, the Supreme Court of Virginia responded to a letter dated March 4, 2010, from Mr. Clark.
19. Mr. Jones' office received \$7,900.00 from the Mecklenberg County Circuit Court following the forfeiture case. Mr. Jones has no records to explain the distribution of the \$7,900.00 he received on behalf of Mr. Clark from the forfeiture proceeding other than the accounting prepared for Benita Brown by his assistant, Brian Mangas, dated April 30, 2009 (VSB Exhibit 8), check number 1088 in the amount of \$2900 to Ms. Brown, dated May 5, 2009 (VSB Exhibit 10), and his deposit and transfer of the \$7900 among his two bank accounts (VSB Exhibits 9 and 11)
22. First Market Bank Checking Account No. 4011162130, in the name of Vaughan C. Jones, Attorney, PLLC is not an escrow account, although the bank statements identify it as an escrow account, while the checks drawn on the account do not

With regard to all of the evidence presented, the stipulations of fact, the exhibits that were introduced into evidence including the deposition testimony of the complainant, Rodney Clark, the testimony of the other witnesses, including the Respondent, Mr. Jones, Benita Brown, and Bryan Mangas, and the arguments of counsel, the Three-Judge Court made the following additional findings of fact:

- That the Respondent did not diligently pursue the appeal of the Mecklenberg forfeiture action for client Rodney Clark although he filed a notice of appeal indicating that he was counsel for the appellant.
- That the Respondent did not adequately communicate with Mr. Clark or his agent about the appeal.
- That the Respondent's client and agent thought that the Respondent was pursuing the appeal based upon their discussions with his office but learned later upon contacting the trial court and the Supreme Court of

Virginia that he had not pursued the appeal.

- That the Respondent did not maintain the required escrow account records for his handling of the money recovered for Mr. Clark in the forfeiture action.
- That the Respondent received \$1,500 of Mr. Clark's money for which he did not account.
- That the Respondent terminated his representation of Mr. Clark in the appeal without notice, without taking appropriate steps to protect his interests, and without refunding unearned fees.

**UPON CONSIDERATION WHEREOF** the Court finds that the bar proved that the Respondent committed misconduct in violation of the following 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.
- (b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

**Rule 1.15 Safekeeping Property**

- (c) A lawyer shall:

- (3) Maintain complete records of all funds, securities, and other properties of a client coming into the possession of the lawyer and render appropriate accounts to the client regarding them;

**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).

The Court dismissed Rule 1.3(c) as inapplicable and dismissed Rules 1.15(c)(4) *Safekeeping Property*, and 5.3 (a), (b) and (c), *Responsibilities Regarding Nonlawyer Assistants*, on the basis that the bar had not proven violations of those Rules.

**THEREAFTER**, the Court reconvened to determine an appropriate sanction for the misconduct found and to consider a third matter, a Certification for Sanction Determination, VSB Docket Number 12-033-090283, issued by the Third District Committee, Section III, on the District Committee's findings that the Respondent had failed to comply with the Terms of a Public Reprimand with Terms previously issued by the District Committee. The parties submitted the following stipulations:

1. The Findings of Fact and Nature of Misconduct is a true and accurate recitation from the Public Reprimand with Terms issued by the Third District Committee in VSB Docket No. 10-033-082001. A copy of the District Committee's Public Reprimand with Terms is attached as Exhibit A to VSB Exhibit 14 filed with the Court.
2. Mr. Jones did not timely comply with Term No. 2 of the Public Reprimand with Terms for the reporting period November 1, 2009 through October 31, 2010 and November 1, 2010 through October 31, 2011. On March 6, 2012, Mr. Jones submitted certifications of attendance equal to 30 hours of Continuing Legal Education, at which time Mr. Jones fully satisfied the CLE attendance requirement imposed in the District Committee Determination.
3. Mr. Jones timely complied with Term No. 1 of the Public Reprimand with Terms.

The Court also received without objection the Respondent's prior disciplinary record consisting of a Private Reprimand, a Public Admonition, and two Public Reprimands with Terms, one of which was the action underlying the Certification for Sanction Determination.

In mitigation the Court received the testimony of Claire Cardwell, Esquire, and R. Christopher Jones, Esquire, who provided testimony concerning the Respondent's character and fitness to practice law, and the Respondent, who testified on his own behalf.

The Complainant and the Respondent then presented argument regarding the sanction to be imposed upon the Respondent for the misconduct found and the Certification for Sanction Determination, and the Three-Judge Court recessed to deliberate.

**AFTER DUE CONSIDERATION** of the evidence as to mitigation and aggravation and other arguments of counsel the Court reconvened to announce its sanction, the **SUSPENSION** of the Respondent's license to practice law in the Commonwealth of Virginia for a period of **SIXTY (60) DAYS**, effective October 1, 2012, with **TERMS**.

The terms with which the Respondent, Vaughan Christopher Jones, must comply are:

1. Restitution in the amount of \$1,500 (one thousand five hundred dollars) in the matter of VSB Docket No.10-033-084156, Complainant: Rodney O. Clark, to be paid within six (6) months.
2. Review of escrow and accounting practices maintained by the Respondent to be conducted by the Virginia State Bar for a period not to exceed one year.

Upon satisfactory proof that the terms of this disposition have been met, this matter shall be closed. Failure to comply with any of the foregoing terms within the time periods given will result in the matter being returned to the Court for further proceedings to consider the imposition of an alternate sanction against the Respondent.

It is further **ORDERED**, pursuant to the provisions of Part Six, Section IV, Paragraph 13-29 of the Rules of the Supreme Court of Virginia, that 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. The Respondent shall give such notice within 14 days of the effective date of the order, and make such arrangements as are required herein within 45 days of the effective date of this order. The Respondent shall furnish proof to the Bar within 60 days of the effective date of the order that such notices have been timely given and such arrangements for the disposition of matters made. Issues concerning the adequacy of the notice and the arrangement required herein shall be determined by the Virginia State Bar Disciplinary Board, which may impose a sanction of revocation or suspension for failure to comply with these requirements.

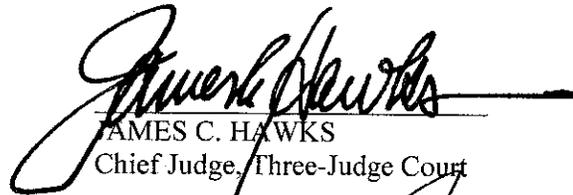
Pursuant to Part Six, Section IV, Paragraph 13-9.E of the Rule of the Supreme Court of Virginia, the Clerk of the Disciplinary System of the Virginia State Bar shall assess costs.

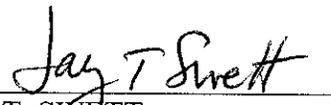
It is further **ORDERED** that a copy teste of this order shall be served by the Clerk

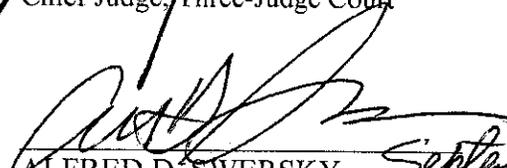
mail, return receipt requested, at 1622 West Main Street, Richmond, Virginia 23220, his address of record with the Virginia State Bar; and by regular mail to his counsel, Michael L. Rigsby, Esquire, at P.O. Box 29328, Henrico, Virginia 23242, and to Edward L. Davis, Bar Counsel, at the Virginia State Bar, Eighth and Main Building, Suite 1500, 707 East Main Street, Richmond, Virginia 23219.

The court reporter who transcribed these proceedings is Tracy J. Stroh, RPR, CCR, CLR of Chandler & Halasz, Court Reporters, P.O. Box 9349, Richmond, Virginia 23227, telephone number 804-730-1222.

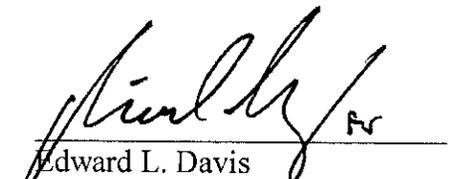
ENTERED this 22<sup>ND</sup> day of August, 2012.

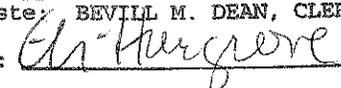
  
JAMES C. HAWKS  
Chief Judge, Three-Judge Court

  
JAY T. SWETT  
Retired Judge, Three-Judge Court

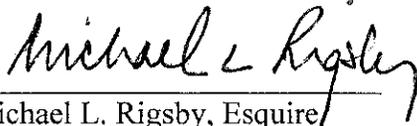
  
ALFRED D. SWERSKY September 4, 2012  
Retired Judge, Three-Judge Court

I ASK FOR THIS:

  
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A Copy,  
Teste: BEVILL M. DEAN, CLERK  
BY:  D.C.

SEEN (AND OBJECTED TO):



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