

VIRGINIA:

**BEFORE THE THIRD DISTRICT SUBCOMMITTEE
OF THE VIRGINIA STATE BAR**

**IN THE MATTERS OF
Darryl Arthur Parker**

VSB Docket Nos. 14-032-096998 & 14-032-096375

**SUBCOMMITTEE DETERMINATION
(PUBLIC ADMONITION WITH TERMS)**

On March 21, 2014 a meeting was held in this matter before a duly convened Third District Subcommittee consisting of Alexander S. de Witt, Esq., Subcommittee Chair; Paul G. Gill, Esq., Member; and Barry Green, Lay Member. During the meeting, the Subcommittee voted to approve an agreed disposition for a Public Admonition with 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 Renu Mago Brennan, Assistant Bar Counsel, and Darryl Arthur Parker, Respondent, *pro se*.

WHEREFORE, the Third District Subcommittee of the Virginia State Bar hereby serves upon Respondent the following Public Admonition with Terms:

I. VSB Docket No. 14-032-096998 Complainant: Jamall A. Chamblee

A. FINDINGS OF FACT

1. At all times referenced herein, Respondent Darryl Arthur Parker (Respondent) has been an attorney licensed to practice law in the Commonwealth of Virginia.
2. On September 27, 2012, Lonnie and Felicia Chamblee retained Respondent to modify the sentences of their son, Jamall A. Chamblee, for a \$2,500.00 fee.
3. In August 2011, December 2011, January 2012, and November 2012 Jamall Chamblee was sentenced in seven jurisdictions in Virginia.
4. Prior to his September 27, 2012 meeting with the Chamblees and sometime in the fall of 2012, Respondent met with Jamall Chamblee in the Riverside Regional Jail

regarding the modification of his sentences. The two discussed Jamall Chamblee's convictions, employment history, educational background, and the programs in which Jamall Chamblee was involved while incarcerated. Respondent explained to Jamall Chamblee that Respondent would have to move to modify his sentences before he was transferred from the Riverside Regional Jail to the Department of Corrections. Respondent explained, and Jamall Chamblee understood, that the trial courts would lose jurisdiction when Jamall Chamblee was transferred.

5. On September 27, 2012, Lonnie and Felicia Chamblee and their son, Justin, Jamall's brother, met with Respondent. In this meeting, the Chamblees paid Respondent \$1,000.00 of his \$2,500.00 fee. Respondent provided the Chamblees with a receipt regarding the \$1,000.00 payment.
6. Respondent did not deposit the \$1,000.00 payment in his trust account. Respondent maintains that the fee was earned as of September 27, 2012 as he had met with both Jamall Chamblee and the Chamblees.
7. Respondent asserts that he explained to the Chamblees that he would have to file a motion to modify in one jurisdiction, and after he was successful, he would have a better chance in moving to modify the sentences in other jurisdictions.
8. As a result of their meeting, the Chamblees understood that Respondent had to file any motion(s) to modify their son's sentences prior to his transfer to the Department of Corrections.
9. After the meeting, Justin Chamblee obtained sentencing orders and warrants from two courts. In October or November 2012 Justin Chamblee dropped these orders and warrants off at Respondent's office.
10. Respondent contends that he visited courts to obtain and review Jamall Chamblee's other sentencing orders.
11. After his fall 2012 meeting with Respondent, despite Jamall Chamblee's attempts to contact Respondent to ascertain the status of the motions to modify, Respondent did not communicate again with Jamall Chamblee.
12. After their September 27, 2012 meeting with Respondent, the Chamblees, including Justin Chamblee, were also unsuccessful in their attempts to communicate with Respondent. Felicia Chamblee states that Respondent did not return her calls. Respondent disputes this contention.
13. On December 4, 2012 Jamall Chamblee was transferred to the Department of Corrections' Powhatan Receiving Unit.
14. Respondent had not yet filed any motions to modify on Jamall Chamblee's behalf.

15. In early 2013 Justin Chamblee visited Respondent's office and left a message for Respondent to contact him or his family regarding the status of Jamall Chamblee's matter.
16. Respondent called Felicia Chamblee after Jamall Chamblee was transferred and after Justin Chamblee visited his office. Felicia Chamblee advised Respondent that Jamall Chamblee had been transferred to the Department of Corrections. Respondent was unaware that Jamall Chamblee had been transferred. Felicia Chamblee inquired as to whether Respondent could still file a motion to modify sentence on Jamall Chamblee's behalf. Felicia Chamblee states that Respondent advised her that he would look into the matter and refund her fee if he could not pursue a motion to modify her son's sentence. Respondent asserts that he never promised Ms. Chamblee a refund for any reason.
17. Mrs. Chamblee asserts that Respondent did not follow up with her. Respondent disputes this contention.
18. On February 20, 2013 Respondent filed a motion to modify sentence on Jamall Chamblee's behalf in the Circuit Court of the City of Williamsburg and James City County.
19. Respondent did not advise Jamall Chamblee directly or through his family that he filed the motion to modify sentence nor did he advise them of the viability of the motion in light of Jamall Chamblee's transfer to the Department of Corrections.
20. By letter dated March 7, 2013, the Court advised Respondent that the motion to modify Jamall Chamblee's sentence was denied because a suspension or modification did not appear compatible with the public interest nor were there any circumstances in mitigation of the offense pursuant to Va. Code §19.2-303.
21. By Order entered March 14, 2013, the Court denied the motion to modify sentence.
22. Respondent failed to provide Jamall Chamblee or his family with any of the pleadings he filed or with the Order entered by the Court. Respondent concedes that his file does not contain any documentation to support that he provided Jamall Chamblee or any member of his family with the pleadings or Order entered by the Court, but Respondent states it is his practice to send orders to clients.
23. Respondent never advised Jamall Chamblee or any member of his family that he filed the motion, that it was denied, the reason it was denied, and any options open to Jamall Chamblee in light of the denial. Justin Chamblee ran into Respondent after he attempted to visit him in his office. Respondent advised Justin Chamblee that it was too late for him to do anything for Jamall Chamblee. Justin Chamblee asserts, and Respondent denies, that Respondent offered to refund the \$1,000.00 fee to the Chamblees.

24. Other than the receipt provided to the Chamblees reflecting the \$1,000.00 payment and a balance due of \$1,500.00, Respondent did not provide the bar's investigator with any other records regarding the fee, nor did he provide the Chamblees or Jamall Chamblee with any accountings or invoices. Respondent contends the Chamblees did not request an accounting or invoices.
25. Respondent did not maintain a subsidiary ledger regarding funds received from the Chamblees.

B. 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.

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

- (b) Specific Duties. 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 accountings to the client regarding them;

- (c) Record-Keeping Requirements. A lawyer shall, at a minimum, maintain the following books and records demonstrating compliance with this Rule:

- (2) A subsidiary ledger containing a separate entry for each client, other person, or entity from whom money has been received in trust.

The ledger should clearly identify:

- (i) the client or matter, including the date of the transaction and the payor or payee and the means or methods by which trust funds were received, disbursed or transferred; and

- (ii) any unexpended balance

II. VSB Docket No. 14-032-096375 Complainant: Michelle Anderson

A. FINDINGS OF FACT

1. At all times referenced herein, Respondent, Darryl Arthur Parker (Respondent) has been an attorney licensed to practice law in the Commonwealth of Virginia.
2. On May 22, 2012, Michelle Anderson retained Respondent to defend her in a criminal matter in the Chesterfield Juvenile & Domestic Relations Court for a "fixed fee" of \$1,500.00. Ms. Anderson was arrested May 20, 2012, and a hearing was scheduled for May 24, 2012.
3. On May 22, 2012, Ms. Anderson paid Respondent \$1,500.00 in cash for his representation.
4. As of May 22, 2012, Ms. Anderson had met with Respondent twice, first for two hours on May 20 or 21, 2012, and then again on May 22. Respondent's hourly rate per the retainer agreement was \$200.00.
5. Respondent did not deposit the advance fee of \$1,500.00 or any portion thereof in his trust account. Respondent asserts that he placed the \$1,500.00 in his desk drawer and that the entire fee was earned as of May 22, 2012. Respondent did not create or maintain any of the necessary records regarding Ms. Anderson's fee, nor did he create or maintain a subsidiary ledger.
6. Respondent did not provide Ms. Anderson with any accountings or invoices regarding her fee.
7. Although Respondent took steps to advance his representation, including filing motions to continue the hearing, to modify bond, and for discovery and exculpatory evidence, Ms. Anderson did not believe that Respondent was sufficiently advancing her case, and in June 2012, she terminated his representation.
8. Upon terminating Respondent, Ms. Anderson requested an invoice, accountings, and a refund from Respondent. Respondent disputes that Ms. Anderson requested an invoice or accountings. Respondent contends that he asked Ms. Anderson to schedule an appointment to discuss the issue of a refund. Ms. Anderson asserts Respondent did not respond to her inquiries, and she thus subsequently filed a bar complaint.

B. NATURE OF MISCONDUCT

Such conduct by Respondent constitutes misconduct in violation of the following provisions of the Rules of Professional Conduct:

RULE 1.15 Safekeeping Property

(a) Depositing Funds.

(1) All funds received or held by a lawyer or law firm on behalf of a client or a third party, or held by a lawyer as a fiduciary, other than reimbursement of advances for costs and expenses shall be deposited in one or more identifiable trust accounts or placed in a safe deposit box or other place of safekeeping as soon as practicable.

(b) Specific Duties. 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 accountings to the client regarding them;

(c) Record-Keeping Requirements. A lawyer shall, at a minimum, maintain the following books and records demonstrating compliance with this Rule:

(2) A subsidiary ledger containing a separate entry for each client, other person, or entity from whom money has been received in trust.

The ledger should clearly identify:

(i) the client or matter, including the date of the transaction and the payor or payee and the means or methods by which trust funds were received, disbursed or transferred; and

(ii) any unexpended balance.

III. PUBLIC ADMONITION WITH TERMS

Accordingly, having approved the agreed disposition, it is the decision of the Subcommittee to impose a Public Admonition with Terms.

The terms shall be met by the dates specified below and are as follows:

1. For a period of two years following the date of service of the Public Admonition with Terms on Respondent, Respondent shall not engage in any conduct that violates Virginia Rules of Professional Conduct 1.3, 1.4, 1.15 and all subparts, including any amendments

thereto, and/or which violates any analogous provisions of the Rules of Professional Conduct governing diligence, communication, and the safekeeping of property, and any amendments thereto, of any other jurisdiction in which Respondent may be admitted to practice law. The terms contained in this paragraph shall be deemed to have been violated when any ruling, determination, judgment, order, or decree has been issued against Respondent by a disciplinary tribunal in Virginia or elsewhere, containing a finding that Respondent has violated Rule 1.3, 1.4, and 1.15 of the Rules of Professional Conduct or any analogous provisions of any other jurisdiction in which Respondent may be admitted to practice law, provided however, that the conduct upon which such finding was based occurred within the two-year period following the date of service of the Public Admonition with Terms on Respondent, and provided, further, that such ruling has become final.

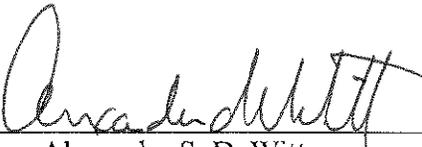
2. On or before April 1, 2015, Respondent shall complete six hours of continuing legal education credits by attending courses approved by the Virginia State Bar in the subject matter of trust accounting and the safekeeping of property. Respondent's Continuing Legal Education attendance obligation set forth in this paragraph shall not be applied toward his Mandatory Continuing Legal Education requirement in Virginia or any other jurisdictions in which Respondent may be licensed to practice law. Respondent shall certify his compliance with the terms set forth in this paragraph by delivering a fully and properly executed Virginia MCLE Board Certification of Attendance form (Form 2) to Assistant Bar Counsel Renu M. Brennan or her designee, promptly following his attendance of each such CLE program(s).
3. Respondent shall read in its entirety *Lawyers and Other People's Money* and Rule 1.15 of the Virginia Rules of Professional Conduct in its entirety and shall certify compliance in writing to Assistant Bar Counsel Renu M. Brennan or her designee by April 15, 2014.
4. From April 1, 2014 to April 1, 2016, Respondent hereby authorizes a Virginia State Bar Investigator to conduct personal inspections of his trust account books, records, and bank records to ensure his compliance with all of the provisions of Rule 1.15 of the Rules of Professional Conduct, and Respondent shall fully cooperate with the Virginia State Bar investigator.

If the terms are not met by the time specified, pursuant to Part 6, § IV, ¶ 13-15.F of the Rules of the Supreme Court of Virginia, the District Committee shall hold a hearing and Respondent shall be required to show cause why the alternative disposition, a Certification for Sanction Determination, should not be imposed. Any proceeding initiated due to failure to comply with terms will be considered a new matter, and an administrative fee and costs will be assessed.

Pursuant to the Agreed Disposition in this matter, this Public Admonition with Terms is non-appealable.

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.

THIRD DISTRICT SUBCOMMITTEE
OF THE VIRGINIA STATE BAR



Alexander S. DeWitt
Subcommittee Chair

CERTIFICATE OF MAILING

I certify that on March 27, 2014, a true and complete copy of the Subcommittee Determination (Public Admonition With Terms) was sent by certified mail, return receipt requested to Darryl Arthur Parker, Respondent, at Ste 2A, 3113 W Marshall St, Richmond, VA 23230, Respondent's last address of record with the Virginia State Bar.



Renu Mago Brennan
Assistant Bar Counsel