

Jun 27, 2016

VIRGINIA:

VSB CLERK'S OFFICE

BEFORE THE FIRST DISTRICT SUBCOMMITTEE  
OF THE VIRGINIA STATE BAR

IN THE MATTER OF  
Kevin Peter Shea

VSB Docket No. 14-010-099614

SUBCOMMITTEE DETERMINATION  
(PUBLIC REPRIMAND WITHOUT TERMS)

On June 15, 2016 a meeting was held in this matter before a duly convened First District Subcommittee consisting of Charles Tayloe Griffith, Chair presiding, Vaughn Thomas Breedlove, Esquire, and Mr. William E. Laine, Jr., Lay Member. 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 Christine Corey, Assistant Bar Counsel, and Kevin Peter Shea, Respondent, and Joseph J. Stellute, Esquire, counsel for Respondent.

WHEREFORE, the First District 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 was licensed to practice law in the Commonwealth of Virginia.

2) On July 10, 2008, Lora Bennett (wife) consulted with Respondent regarding her divorce case and she signed a retainer agreement, but did not pay her retainer until July 15, 2008. Ms. Bennett advised Mr. Shea that depositions were scheduled for July 28, 2008, when they were actually scheduled for July 18, 2008.

3) Wanda Allen represented Richard Bennett (husband).

4) Previous to either attorney being involved, the husband had signed a document on September 24, 2006, agreeing to give wife real estate, vehicles, personal property, military retirement, and spousal support in the event of a divorce because he had engaged in affairs and had treated wife poorly and he wanted to reconcile with her.

5) Wanda Allen filed a Complaint for divorce on husband's behalf on June 20, 2008. On the same day, she also filed a Notice to Take Depositions, with the deposition date being July 18, 2008.

6) Wife was served by substituted service on June 25, 2008.

7) Wife's Answer was due to the Court by July 16, 2008. On July 16, 2008, Respondent's office manager called Ms. Allen's law office and spoke with her secretary. Respondent's office manager informed Ms. Allen's secretary that Respondent had been retained to represent Wife and that he was unavailable for the depositions and they needed to be rescheduled. Ms. Allen's secretary asked Respondent's office manager to have Respondent send a letter for Ms. Allen's file. A letter was faxed from Respondent to Ms. Allen confirming that Respondent had been retained and requesting that the depositions be rescheduled. A copy of the letter was also sent to the Court.

8) Respondent did not file the Answer on July 16 and he did not file a formal Notice of Representation.

9) On July 17, 2008, Respondent's office manager called Ms. Allen's office again and left a message requesting that Ms. Allen call Respondent about rescheduling the depositions.

10) Ms. Allen conducted the depositions on July 18, 2008 and did not call Respondent.

11) Ms. Allen filed a Motion to Amend the separation date, as well as an Amended Complaint on July 22, 2008, and her certificates indicate that she sent the Motion and Amended Complaint directly to wife; although she had been advised by correspondence from Respondent that wife was represented by counsel. She also sent an Order granting leave to file the Amended Complaint and the Final Decree on the same date.

12) The Court entered the Order granting leave to file an Amended Complaint and the Final Decree on July 23, 2008.

13) Respondent filed the Answer and Cross-Bill on July 28, 2008, without a Motion for Leave to File a Late Answer.

14) On August 12, 2008, Respondent learned that the Final Decree had been entered and he filed a Motion to Vacate the Final Decree on August 13, 2008 on the 21<sup>st</sup> day. On August 13, he drove his associate to the courthouse to hand-deliver the Motion to the Court. The Motion was delivered, but the Judge did not see the filing until after 21 days had elapsed and the Court lost jurisdiction of the case.

15) Respondent filed a Notice of Appeal in Circuit Court on August 22, 2008.

16) On February 3, 2009, the Court of Appeals affirmed the judgment of the trial court and found that the appeal was without merit.

17) Respondent's associate filed the Petition for Appeal to the Virginia Supreme Court on March 5, 2009.

18) On May 12, 2009, the Virginia Supreme Court dismissed the appeal.

19) Thereafter, Respondent filed a contract action on wife's behalf to recover in contract based on the document signed by husband.

20) After the contract action was filed, and husband's Motion to Dismiss was denied, Wife hired another lawyer to represent her and substitute in for Respondent in the contract action and she had the same lawyer represent her in a malpractice claim against Respondent.

21) Husband's lawyer and wife's lawyer came to an agreement on the contract issues and asked the Court to reinstate the divorce matter on the docket and make the Consent Order part of the divorce case.

22) Once the Consent Order was entered, the contract action was dismissed and wife's attorney went forward on the malpractice claim against Respondent. Ultimately, wife was awarded \$1.2 million by the jury for the injuries resulting from the malpractice of the Respondent.

23) Respondent appealed the malpractice action to the Virginia Court of Appeals and the Virginia Supreme Court, but all of the appeals were denied.

**I. NATURE OF MISCONDUCT**

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

**1.3 Failure to act with Diligence**

(a) A lawyer shall act with reasonable diligence and promptness in representing a client.

**II. 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 Kevin Peter Shea is hereby so reprimanded.

It is further **ORDERED** that 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.

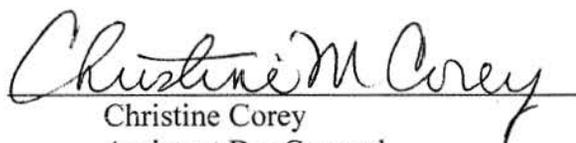
FIRST DISTRICT SUBCOMMITTEE  
OF THE VIRGINIA STATE BAR

By: 

Charles Tayloe Griffith, Esq.  
Subcommittee Chair

CERTIFICATE OF MAILING

I certify that on June 27, 2016, a true and complete copy of the Subcommittee Determination **PUBLIC Reprimand Without Terms** was sent by certified mail to Kevin Peter Shea, Respondent, at 34 West Queens Way, Hampton, VA 23669, Respondent's last address of record with the Virginia State Bar, and by first class mail, postage prepaid to Joseph J. Stellute, counsel for Respondent, at The Stellute Law Firm, P.O. Box 351, Hampton, VA 23669-0351.

  
Christine Corey  
Assistant Bar Counsel