

VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

**IN THE MATTER OF
JAMES FRED SUMPTER**

VS B Docket No. 12-032-090738

MEMORANDUM ORDER OF SUSPENSION

This matter came on to be heard on August 1, 2012, by the Disciplinary Board of the Virginia State Bar (the Board) by teleconference upon an Agreed Disposition between the parties, which was presented to a panel of the Board consisting of Jody D. Katz, Lay Member, Paul M. Black, Samuel R. Walker, Esther J. Windmueller, and Pleasant S. Brodnax, III, Chair presiding (the Panel).

Renu Mago Brennan, Assistant Bar Counsel, appeared as counsel for the Virginia State Bar, and Respondent James Fred Sumpter (Respondent) appeared by teleconference *pro se*.

Pursuant to the Rules of the Supreme Court of Virginia, Part 6, Section IV, Paragraph 13-6.H, the Bar and Respondent entered into a written proposed Agreed Disposition and presented same to the Panel.

The Chair swore the Court Reporter and polled the members of the Panel to determine whether any member had a personal or financial interest that might affect or reasonably be perceived to affect his or her ability to be impartial in these matters. Each member, including the Chair, verified they had no such interests.

The Panel heard argument from counsel and reviewed Respondent's prior disciplinary record with the Bar and thereafter retired to deliberate on the Agreed Disposition. Having

considered all the evidence before it, a majority of the Panel accepted the Agreed Disposition.

I. FINDINGS OF FACT

The Disciplinary Board finds the following facts by clear and convincing evidence:

1. At all times referenced herein Respondent James Fred Sumpter (Respondent) has been an attorney licensed to practice law in the Commonwealth of Virginia.
2. On August 17, 2011, final judgment was entered against Winston Curtis Jones (Jones) by the Circuit Court of the County of Sussex upon a criminal conviction. Respondent represented Jones in his trial.
3. The Circuit Court of the County of Sussex appointed Respondent to handle Jones's appeal.
4. Respondent timely noted Jones's appeal with the Court of Appeals of Virginia, and Respondent ordered the trial transcripts.
5. Respondent received and lost the trial transcripts.
6. Respondent did not request an extension of deadlines in order to obtain new transcripts and submit the petition for appeal.
7. Respondent failed to file Jones's petition for appeal with the Court of Appeals of Virginia.
8. By order dated December 2, 2011, the Court of Appeals of Virginia dismissed Jones's appeal because no petition for appeal was filed.
9. Respondent did not advise Jones that he failed to file the petition for appeal with the Court of Appeals of Virginia, nor did Respondent advise Jones of the dismissal of his appeal.
10. In December 2011, Jones hired Mary K. Martin, Esq., to determine the status of and pursue his appeal.
11. By letter dated December 28, 2011, to the Clerk of the Circuit Court of the County of Sussex, with a copy to Respondent and to the Clerk of the Court of Appeals, Ms. Martin advised that she had been retained to represent Jones in his appeal and that she would file for a delayed appeal. Ms. Martin enclosed a motion substituting her in as counsel in Jones's appeal.

12. Pursuant to Va. Code Section 19.2-321.1, Ms. Martin filed a motion for delayed appeal with the Court of Appeals of Virginia. Respondent signed an affidavit, submitted with the motion for delayed appeal, in which he conceded his error in failing to file Jones's petition for appeal with the Court of Appeals of Virginia.
13. The Court of Appeals of Virginia granted the motion for delayed appeal.
14. In April 2012, Ms. Martin timely noted Jones's appeal with the Court of Appeals of Virginia.

II. NATURE OF MISCONDUCT

The Disciplinary Board finds that such conduct by James Fred Sumpter constitutes 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.

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).

III. IMPOSITION OF SANCTION

Having considered all the evidence before it and determined to accept the Agreed Disposition, the Disciplinary Board **ORDERS** that Respondent's **license to practice law in the Commonwealth of Virginia is suspended for a period of THIRTY (30) DAYS, effective September 1, 2012.**

In accordance with the Agreed Disposition in this matter, this **ORDER** is **FINAL** and **NON-APPEALABLE**.

It is further **ORDERED** that Respondent must comply with the requirements of Part Six, Section IV, Paragraph 13-29 of the Rules of the Supreme Court of Virginia. 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 client. Respondent shall give such notice within 14 days of the effective date of the suspension, and make such arrangements as are required herein within 45 days of the effective date of the suspension. The Respondent shall also furnish proof to the Bar within 60 days of the effective day of the suspension that such notices have been timely given and such arrangements made for the disposition of matters.

It is further **ORDERED** that if the Respondent is not handling any client matters on the effective date of the suspension, he shall submit an affidavit to that effect to the Clerk of the Disciplinary System at the Virginia State Bar. All issues concerning the adequacy of the notice and arrangements required by Paragraph 13-29 shall be determined by the Virginia State Bar Disciplinary Board, unless the Respondent makes a timely request for hearing before a three-judge court.

It is further **ORDERED** that costs shall be assessed by the Clerk of the Disciplinary System pursuant to the Rules of the Supreme Court of Virginia, Part Six, Section IV, Paragraph 13-9.E.

It is further **ORDERED** that the Clerk of the Disciplinary System shall send a certified copy of this order to James Fred Sumpter at his last address of record with the Virginia State Bar, P.O. Box 5564, Midlothian, Virginia 23112, and hand-delivered to Renu M. Brennan, Assistant Bar Counsel, Virginia State Bar, 707 East Main Street, Suite 1500, Richmond, Virginia 23219.

Terry S. Griffith, Certified Court Reporter, with Chandler & Halasz, P.O. Box 9349, Richmond, Virginia 23227, telephone 804-730-1222, was the court reporter for the hearing and transcribed the proceedings.

ENTERED: August 2, 2012

VIRGINIA STATE BAR DISCIPLINARY BOARD

By: PSB
Pleasant S. Brodnax, III, 1st Vice Chair