

VIRGINIA:

BEFORE THE THIRD DISTRICT, SECTION I, SUBCOMMITTEE
OF THE VIRGINIA STATE BAR

IN THE MATTER OF
James Wicker Traylor

VS B Docket No. 14-031-096467

SUBCOMMITTEE DETERMINATION
(PUBLIC REPRIMAND WITHOUT TERMS)

On May 07, 2014 a meeting was held in this matter before a duly convened Third District, Section I, Subcommittee consisting of Carolyn Grady, Esquire, Subcommittee Chair; James Andrews, Esquire, Member; and Robert South, 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 Kara L. McGehee, Assistant Bar Counsel, and James Wicker Traylor, Respondent, pro se.

WHEREFORE, the Third District, Section I, Subcommittee of the Virginia State Bar hereby serves upon Respondent the following Public Reprimand without Terms:

I. FINDINGS OF FACT

1. At all times herein, Respondent was an attorney in good standing with the Virginia State Bar, having been licensed to practice in the Commonwealth in 1999.
2. Teofalo A. Amey was charged with two felony counts of third offense carrying a concealed weapon in violation of Va. Code §18.2-308 in the Hopewell Circuit Court.
3. On September 19, 2012, Respondent was substituted as counsel for Mr. Amey by circuit court order. The matter was scheduled for a jury trial for Monday, November 19, 2012.
4. Mr. Amey was being held in jail pending trial.

5. Respondent claimed in his statements to the Bar investigator and to the Court that he sent a letter to Mr. Amey prior to meeting with him, but has never produced a copy of any such letter.
6. On November 8, 2012, the prosecutor initiated plea agreement discussions with Respondent via email. Respondent sent an email to the prosecutor that said he would inform her of his client's response to the plea offer "by close of day."
7. On November 13, 2012, the prosecutor emailed Respondent again. Respondent replied, "Plan for the plea I can't get to the jail til [sic] tomorrow."
8. Respondent went to the jail to meet with Mr. Amey for the first time on Friday, November 16, 2012.
9. Mr. Amey was upset with Respondent and told him he was not interested in a plea agreement. Mr. Amey cut the meeting short because he believed Respondent was not interested in the facts of the case and only wanted to talk about a guilty plea.
10. Respondent talked to the judge and the prosecutor later that day about his client's lack of cooperation. Respondent told the judge he wanted to withdraw from the case. The judge refused to continue the case and did not allow Respondent to withdraw.
11. Mr. Amey refused to meet with Respondent again when Respondent returned to the jail.
12. On the day of trial, Respondent renewed his motion to continue and motion to withdraw. Respondent told the court that his client was not communicating with him. He also stated that he believed it was his client's responsibility to get in touch with him, even though the client was incarcerated.
13. Respondent represented to the court that he was ready and prepared for a jury trial. Mr. Amey told the court that he had witnesses he wanted to subpoena but that Respondent's

failure to meet with him until one business day before trial had rendered him unable to subpoena those witnesses.

14. Respondent admitted on the record that he had not spoken with the Commonwealth's witnesses prior to court.
15. The judge denied the motion to withdraw and instructed the parties to move forward with the trial.
16. The Commonwealth then elected to waive its right to a jury trial, and the Court took a brief recess to excuse the jury.
17. During that recess, Mr. Amey decided it was in his best interests to take the plea agreement instead of proceeding with trial with what he believed was an unprepared defense attorney. He then entered a full guilty plea on the record and was sentenced in accordance with the agreement Respondent had previously proposed to him.

II. NATURE OF MISCONDUCT

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

Rule 1.1 – Competence

A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

Rule 1.3 – Diligence

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

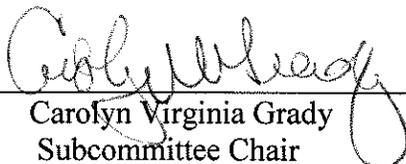
Rule 1.4 – Communication

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

III. 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 James Wicker Traylor is hereby so reprimanded. 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, SECTION I,
SUBCOMMITTEE
OF THE VIRGINIA STATE BAR

By: 
Carolyn Virginia Grady
Subcommittee Chair

CERTIFICATE OF MAILING

I certify that on May 30th 2014, a true and complete copy of the Subcommittee Determination (Public Reprimand Without Terms) was sent by certified mail to James Wicker Traylor, Respondent, at 110 North Second Avenue, Post Office Box 283, Hopewell, Virginia, 23860-0283, Respondent's last address of record with the Virginia State Bar.


Kara L. McGehee
Assistant Bar Counsel