

Mar 15, 2016

VIRGINIA:

VSB CLERK'S OFFICE

**BEFORE THE SIXTH DISTRICT SUBCOMMITTEE  
OF THE VIRGINIA STATE BAR****IN THE MATTER OF  
DONALD MAURICE WHITE****VSB Docket No. 15-060-099195****SUBCOMMITTEE DETERMINATION  
(PUBLIC REPRIMAND WITH TERMS)**

On February 24, 2016 a meeting was held in this matter before a duly convened Sixth District Subcommittee consisting of R. Barrow Blackwell, Edward Lacey Chambers, Jr., and Robert R. Hazelwood. During the meeting, the Subcommittee voted to approve an agreed disposition for a Public Reprimand 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 Prescott L. Prince, Assistant Bar Counsel, and Donald Maurice White, Respondent, *pro se*.

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

**I. FINDINGS OF FACT**

1. At all times relevant hereto, Donald Maurice White ("Respondent"), has been an attorney licensed to practice law in the Commonwealth of Virginia.
2. Respondent was retained by the Complainant, Nicole Renee Hershberger, in 2011 to represent her for a divorce and the divorce was filed in May 2011. Respondent charged a \$1,500 "flat fee" for the divorce which was to include fees for the Commissioner and guardian ad litem.<sup>1</sup>

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<sup>1</sup> Since the husband was incarcerated at the time of the filing and therefore under a legal disability, a guardian ad litem was appointed.

3. At the time the divorce was filed, Ms. Hershberger's husband had recently been convicted of felony domestic assault and was sentenced to serve two years of active incarceration.

4. At the time the divorce was filed, Respondent believed that Ms. Hershberger's husband was incarcerated at the Pamunkey Regional Jail.

5. Respondent asserts that when he filed the Divorce Complaint, he requested that the husband be served at the Pamunkey Regional Jail. In fact, for unknown reasons, the husband was not served.

6. Respondent did not take any significant further action for approximately 13 months after the divorce was filed.

7. Respondent did not check on the status of the service on the husband and he did not learn that the husband had not been served. He was so informed by the Commissioner at the time of the Commissioner's Hearing in December 2012 that the husband had not been served yet.

8. On multiple occasions after the filing of the divorce, Ms. Hershberger contacted Respondent to request information regarding the status of the case. Despite her inquiries, on no occasion did Respondent check on the status of the service on the husband so he could properly advise Ms. Hershberger of the status of the case.

9. Respondent's failure to discover the absence of service in a timely manner not only delayed the possibility of early resolution of the divorce proceeding, but caused Ms. Hershberger, who was then living out of state, to waste time and money to travel to Virginia to testify at the Commissioner's Hearing.

10. Respondent's failure to confirm that the opposing party had been served, or to make any further significant attempt to move the case forward for an extended period of time,

contrary to the desires of his client, constitutes a violation of Virginia Rule of Professional Conduct (RPC) 1.3(a).

11. Thereafter, Respondent did obtain proper service on the husband and attempted to proceed with the divorce.

12. Husband initially disputed the property settlement proposed by Ms. Hershberger even though Ms. Hershberger agreed to waive her interest in all marital property except a pickup truck which is jointly titled. A property settlement agreement was finally reached and signed by all parties.

13. Respondent accepts some responsibility for the delay that occurred after discovering that the husband had not been properly served, but contends that much needless delay was caused by the husband in an attempt to prevent Ms. Hershberger from obtaining the divorce. Respondent states that notwithstanding the additional time and effort spent on the case due to the husband's attempts to frustrate the process, he did not charge Ms. Hershberger any additional legal fees.

14. Respondent submits that there are no foreseeable obstacles to completing the divorce and he expects that it will be completed expeditiously.

15. Throughout the course of the representation, Respondent consistently failed to keep Ms. Hershberger informed about the status of her case. Despite numerous attempts on the part of Ms. Hershberger to contact Respondent, including leaving multiple messages with his office staff, Respondent consistently failed to return her calls.

16. Respondent's failure to maintain reasonable communication with Ms. Hershberger and to provide her with information reasonably necessary to make informed decisions regarding her case constituted a violation of RPC 1.4 (a) and (b).

17. As the result of Respondent's actions, Ms. Hershberger filed a complaint with the Virginia State Bar. In furtherance of the Bar's investigation of the complaint, Assistant Bar Counsel Prescott L. Prince sent a letter to Respondent at 130 Thompson Street, Ashland, VA 23005, that being Respondent's last address of record with the Virginia State Bar, informing Respondent, *inter alia*, that a Bar Complaint had been filed against him and that the letter constituted a lawful demand for information pursuant to Virginia Rule of Professional Conduct 8.1(c); the letter further stated that, pursuant to said Rule 8.1(c), Respondent had a duty to comply with the Bar's lawful demands for information and that failing to respond in a time manner could result in the imposition of disciplinary sanctions.

18. Respondent did not respond to this letter.

## **II. 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.

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

### **RULE 8.1 Bar Admission And Disciplinary Matters**

An applicant for admission to the bar, or a lawyer already admitted to the bar, in connection with a bar admission application, any certification required to be filed as a condition of maintaining or renewing a license to practice law, or in connection with a disciplinary matter, shall not:

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- (c) fail to respond to a lawful demand for information from an admissions or disciplinary authority, except that this Rule does not require disclosure of information otherwise protected by Rule 1.6;

### **III. PUBLIC REPRIMAND WITH TERMS**

Accordingly, having approved the agreed disposition, it is the decision of the Subcommittee to impose a Public Reprimand with Terms. The terms are:

Respondent shall take all steps necessary for the completion of the divorce and present a decree of divorce to the Caroline County Circuit Court within 60 days of the acceptance of this Agreed Disposition by a subcommittee of the Sixth District Committee of the Virginia State Bar. Respondent agrees that he will not charge any additional attorney fees to Ms. Hershberger for services provided to date or for the completion of the divorce proceedings.

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 an alternative sanction of referral of the matter to the Disciplinary Board pursuant to Rules of Court, Part Six, Section IV, Paragraph 13-16.CC 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 Part 6, § IV, ¶ 13-9.E. of the Rules of the Supreme Court of Virginia, the Clerk of the Disciplinary System shall assess costs.

SIXTH DISTRICT SUBCOMMITTEE  
OF THE VIRGINIA STATE BAR

By:



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R. Barrow Blackwell  
Subcommittee Chair

**CERTIFICATE OF MAILING**

I certify that on 15 March 2016, a true and complete copy of the Subcommittee Determination (Public Reprimand With Terms) was sent by certified mail to Donald Maurice White, Respondent, at 130 Thompson Street, Ashland, VA 23005, that being Respondent's last address of record with the Virginia State Bar.

  
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Prescott L. Prince  
Assistant Bar Counsel