

4. On July 19, 2013, McFadden timely filed the notice of appeal.
5. By order entered August 1, 2013, upon Dale's appeal of his criminal conviction, the Henrico County Circuit Court suspended the execution of Dale's sentence for 90 days to allow application for a writ of error.
6. On September 6, 2013, the record of proceedings in the trial court was filed in the clerk's office of the Court of Appeals.
7. By letter dated September 16, 2013, Respondent advised Dale that McFadden left her firm and that she would handle his appeal.
8. On September 26, 2013, Respondent filed a motion for leave of execution of sentence pending the final resolution of Dale's appeal in Henrico County Circuit Court.
9. The deadline to file the petition for appeal was October 16, 2013.
10. Respondent did not timely file the petition for appeal on Dale's behalf.
11. By order entered October 16, 2013, the Henrico County Circuit Court stayed execution of Dale's sentence pending final resolution of his appeal.
12. By order entered November 13, 2013, the Henrico County Circuit Court stayed the sentencing order and released Dale from supervision with a district Office of Probation and Parole pending final resolution of Dale's appeal.
13. By order entered November 22, 2013, the Court of Appeals dismissed Dale's appeal because no Petition for Appeal had been filed on or before the deadline.
14. Pursuant to Va. Code Section 19.2-321.1, Respondent had six months from the dismissal of the appeal to file a motion for leave to pursue a delayed appeal on Dale's behalf.
15. Respondent did not timely file a motion for leave to pursue a delayed appeal.
16. By letter dated February 6, 2014, the Virginia State Bar asked Respondent about the failure to timely file Dale's appeal.
17. By letter dated February 28, 2014, Respondent advised the Bar that her husband passed away in November 2013 and that Dale's appeal slipped through the cracks. She further stated that she would shortly file a motion for leave to pursue a delayed appeal. Respondent then thought she mailed the motion, but she did not.

18. Respondent did not communicate with Dale regarding the dismissal of the appeal at the time the appeal was dismissed, or at the time that she responded to the bar complaint.
19. Respondent did not communicate with Dale regarding the dismissal of the appeal until August 2014, at which time Respondent advised that she would file a motion for leave to pursue a delayed appeal, which would likely be dismissed. Respondent advised Dale he could file a petition for writ of habeas corpus, but he may need to retain other counsel.
20. On August 22, 2014, Respondent filed an untimely motion for leave to pursue a delayed appeal on Dale's behalf.
21. By order entered September 5, 2014, the Court of Appeals denied the motion for leave to pursue a delayed appeal because the motion was not timely filed.

14-032-099871 Complainant: Virginia State Bar/Client Curtis Russell Lee, Jr.

22. On May 9, 2013, Curtis Russell Lee, Jr. retained Respondent to represent him in the Circuit Court of the City of Richmond on his sentencing on convictions for second-degree murder, possession of a firearm by a violent felon, and use of a firearm in felony first offense. Lee also retained Respondent to represent him on his appeal of the murder and firearm convictions.
23. On September 16, 2013, Respondent filed a motion to set aside the verdict and a motion to enter judgment of acquittal or new trial in the Circuit Court of the City of Richmond.
24. On February 14, 2014, the motions were heard, and Lee was sentenced to 22 years on the second-degree murder charge; five years on the use of a firearm in felony first offense charge; and three years on the the possession of a firearm by a violent felon charge.
25. On March 25, 2014, the Circuit Court of the City of Richmond entered judgment against Lee.
26. On April 16, 2014, the Court of Appeals of Virginia received the notice of appeal on Lee's convictions, but the Court of Appeals of Virginia did not receive the filing fee.
27. By e-mail dated April 17, 2014, the Court of Appeals of Virginia advised Respondent that she failed to include the filing fee when she filed the Notice of Appeal on Lee's behalf, and the Court gave Respondent until April 28, 2014, to submit the filing fee.
28. Respondent did not submit the filing fee to the Court of Appeals of Virginia by April 28, 2014.

29. By order entered May 9, 2014, the Court of Appeals of Virginia dismissed Lee's appeal because the filing fee was not timely received in the clerk's office.
30. Respondent informed Lee of the dismissal.
31. With Lee's permission, on June 20, 2014, Respondent filed a motion for leave to pursue delayed appeal.
32. By order entered August 5, 2014, the Court of Appeals of Virginia granted Lee leave to file a replacement notice of appeal.
33. On September 4, 2014, Respondent filed a replacement notice of appeal on Lee's behalf, and the delayed appeal was granted.

14-032-099568 Complainant: Virginia State Bar/Client Rakim Jackson

34. On May 17, 2012, Rakim Jackson was convicted of aggravated malicious wounding, shooting a firearm from a vehicle, and possession and use of a firearm. By order entered November 6, 2013, by the Circuit Court of the City of Richmond, Jackson was sentenced. Respondent did not represent Jackson at trial.
35. Jackson retained Respondent to represent him in his criminal appeal of the convictions.
36. On October 21, 2013, Respondent filed a notice of appeal on Jackson's behalf in the Circuit Court of the City of Richmond and in the Court of Appeals of Virginia.
37. On January 31, 2014, the Court of Appeals of Virginia received the record of proceedings in the trial court.
38. The deadline to file the petition for appeal was March 12, 2014.
39. By order entered April 18, 2014, the Court of Appeals of Virginia dismissed the case because the petition for appeal was not timely filed.
40. Respondent advised Jackson that his appeal was dismissed because of her failure to timely file the petition.
41. On June 20, 2014, with Jackson's consent, Respondent filed a motion for leave to pursue a delayed appeal.
42. By order entered August 5, 2014, the Court of Appeals of Virginia granted Jackson's petition for leave to pursue a delayed appeal.
43. On September 4, 2014, Respondent filed the replacement notice of appeal and notice of filing of transcript, and the delayed appeal was granted.

II. NATURE OF MISCONDUCT

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

As to all three matters referenced herein in:

RULE 1.3 Diligence

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

As to VSB 14-032-099568 (Virginia State Bar/Client Christopher Dale, Jr.) only:

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.

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:

For a period of three (3) years following the date of service of the Public Reprimand with Terms on Respondent, the Respondent shall not engage in any conduct that violates Virginia Rules of Professional Conduct 1.3 and 1.4 and all subparts, including any amendments thereto, and/or which violates any analogous provisions, and any amendments thereto, of the disciplinary rules of another jurisdiction in which the 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 the Respondent by a disciplinary tribunal in Virginia or elsewhere, containing a finding that Respondent has violated any provision of Rule 1.3 or 1.4 of the Rules of Professional Conduct, provided, however, that the conduct upon which such finding was based occurred within the three-year period following the date of service of the Public Reprimand with Terms, and provided, further, that such ruling has become final.

If the terms are not met by the time specified, pursuant to Part 6, §§ IV, ¶ 13-15.F &G 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 a Certification for Sanction Determination should not be issued. 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.

THIRD DISTRICT SUBCOMMITTEE
OF THE VIRGINIA STATE BAR



R. Braxton Hill, IV
Subcommittee Chair

CERTIFICATE OF MAILING

I certify that on Nov 10, 2014, a true and complete copy of the Subcommittee Determination (PUBLIC Reprimand With Terms) was sent by certified mail to Angela Dawn Whitley, Respondent, at The Whitley Law Firm, 3115 Sunset Ave, Richmond, VA 23221-3926, Respondent's last address of record with the Virginia State Bar, and by first class mail, postage prepaid to Craig Stover Cooley, counsel for Respondent, at 3000 Idlewood Avenue, P.O. Box 7268, Richmond, VA 23221-0268.



Renu Mago Brennan
Assistant Bar Counsel