

**VIRGINIA:**

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

**IN THE MATTERS OF  
HENRY ALLEN THOMPSON**

**VSB Docket Nos. 10-031-084194 and 11-031-086623**

**SUBCOMMITTEE DETERMINATION  
(PUBLIC ADMONITION WITHOUT TERMS)**

On January 11, 2012, a meeting in this matter was held before a duly convened Third District Subcommittee, Section I consisting of Stephanie E. Grana, Esquire, Chair, Nelson H. C. Fisher, Esquire, member, and Robert S. Argabright, lay member.

Pursuant to Part 6, Section IV, Paragraph 13-15.B.4., of the Rules of the Supreme Court of Virginia, the Third District Subcommittee, Section I of the Virginia State Bar hereby serves upon the Respondent the following Public Admonition Without Terms:

**I. FINDINGS OF FACT**

1. At all times relevant hereto, Respondent Henry Allen Thompson (Thompson) has been an attorney licensed to practice law in the Commonwealth of Virginia.

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2. In 2009, Complainant Troy Parham (Parham) was tried and sentenced in Sussex County Circuit Court on criminal charges. Thompson was court-appointed to represent Parham at trial and on appeal.
3. Thompson pursued an appeal in the Court of Appeals of Virginia.
4. Parham wrote to the Clerk of the Court of Appeals of Virginia on November 30, 2009 seeking the status of his appeal.
5. On December 9, 2009, the Court of Appeals of Virginia denied the petition on the merits in a one judge decision.
6. By letter to the Clerk of the Court of Appeals of Virginia which the Court received December 28, 2009, Parham asked that Thompson be removed as his counsel and for an extension to proceed further.

7. By letter dated January 7, 2010, the Chief Deputy Clerk of the Court of Appeals of Virginia indicated to Parham, *inter alia*, that Parham's motion for new counsel had been received and filed, that Parham needed to send a copy of the motion with an attached certificate of service, provided with the letter, to opposing counsel and to Thompson and send another copy back to the Court. The January 7, 2010 letter from the clerk was copied to Thompson.
8. According to his certificate, on January 12, 2010, Thompson mailed a notice of appeal to the Court of Appeals of Virginia and the Supreme Court of Virginia by certified mail return receipt requested. The notices were due on January 9, 2010. The Court of Appeals of Virginia received Thompson's Notice of Appeal on January 19, 2010. The Supreme Court of Virginia received Thompson's Notice of Appeal on January 15, 2010.
9. On January 13, 2010, the Court of Appeals of Virginia received Parham's certification of mailing dated January 8, 2010 for the motion for new counsel.
10. According to Parham, on January 13, 2010, he received copies of the Notice of Appeal which Thompson filed with the Court of Appeals of Virginia and the Supreme Court of Virginia.
11. According to his certificate, on January 13, 2010, Thompson mailed a Petition for Appeal to the Court of Appeals of Virginia and the Supreme Court of Virginia both by certified mail return receipt requested.
12. By letter dated January 21, 2010, Thompson sent Parham a copy of the December 9, 2009, Court of Appeals of Virginia order denying the appeal.
13. On February 1, 2010, the Supreme Court of Virginia dismissed the appeal since neither the Notice of Appeal nor the Petition for Appeal were timely filed as required pursuant to Rules 5:14(a) and 5:17(a)(2) of the Rules of the Supreme Court of Virginia.
14. Pursuant to Rule 5:14(a) of the Rules of the Supreme Court of Virginia, the notice of appeal had to be filed with the clerk of the Court of Appeals of Virginia within 30 days after entry of the final judgment, which was the December 9, 2009 order of the Court of Appeals of Virginia denying the petition for appeal, i.e. on or before January 9, 2010.
15. Pursuant to Rule 5:17(a)(2) of the Rules of the Supreme Court of Virginia, the petition for appeal had to be filed with the clerk of the Supreme Court of Virginia within 30 days after entry of the judgment appealed from, i.e., on or before January 9, 2010.
16. The Petition for Appeal to the Supreme Court of Virginia which was received by the clerk of that Court was missing a Table of Authorities as well as pages 11-14. The Petition for Appeal to the Supreme Court of Virginia which was received by the clerk

of the Court of Appeals of Virginia was missing a subject index, a Table of Authorities , and page 1.

17. On June 28, 2010, Thompson filed a Motion for delayed appeal. In his accompanying affidavit, Thompson cited his neglect, failure to supervise, and stated, *inter alia*; that he was out of the office from January 6, 2010 through January 10, 2010, both in court and trying to deal with a tooth problem; that the "brief" was not mailed as instructed or completed; that Thompson failed to communicate with his office during his absence and upon returning to his office found the brief had not been mailed.
18. On July 28, 2010, Thompson sent a letter to Parham stating the Supreme Court of Virginia had refused his request for a delayed appeal, the Commonwealth's Attorney had objected to the granting of a delayed appeal, and Thompson advised Parham to file a petition for writ of habeas corpus.
19. In fact, the Supreme Court of Virginia did grant Thompson's motion for a delayed appeal by order entered on July 28, 2010.
20. On July 29, 2010, Thompson sent a letter to the Sussex County Circuit Court clerk stating that the delayed appeal had been granted, enclosing a copy of the order, asking the Circuit Court of Sussex County to act on the order as soon as possible, and noting that his office had a material conflict with Parham.
21. The Circuit Court of Sussex County appointed Thompson to represent Parham on the delayed appeal. The Supreme Court of Virginia ultimately dismissed the appeal on the merits.
22. Thompson was interviewed by Bar Investigator Cam Moffatt. During the interview, Thompson stated the following:
  - a) Thompson sent the July 28, 2010 letter to Parham indicating the motion for delayed appeal had been refused because he assumed the delayed appeal would be denied based upon the objection of the Commonwealth's Attorney who, according to Thompson, had indicated to him that was her position on the motion. Thompson also wanted to get something to Parham quickly and did not wait until a decision was rendered on the motion. When he got the July 28, 2010 order granting the motion for delayed appeal, Thompson said he immediately wrote to the trial court, with a copy to Parham, advising that the delayed appeal motion had been granted and suggesting that the trial court appoint another attorney due to his conflict with Parham.
  - b) Thompson stated he knew that Parham wanted him to withdraw from the appeal but Thompson did not seek to withdraw sooner because he wanted to protect Parham's right and his experience had shown that the courts in that jurisdiction are reluctant to allow attorneys to withdraw.

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23. On August 13, 2001, Thompson was appointed to represent Dwayne Allen (Allen) in Sussex Circuit Court, where Allen faced extradition to Texas for felony charges.
24. A hearing took place in Sussex Circuit Court on October 15, 2003, at which time Thompson objected to the evidence and to the extradition. Thompson did not file a writ of habeas corpus pending the extradition.
25. Thompson timely filed a Notice of Appeal with the Court of Appeals of Virginia on November 3, 2003. The case was transferred to the Supreme Court of Virginia by Order dated January 8, 2004. Thus, the case was considered a direct appeal from the trial court to the Supreme Court of Virginia.
26. The Supreme Court of Virginia received the Petition for Appeal on February 11, 2004. Thompson's certificate of mailing indicated he sent the petition on February 10, 2004.
27. Allen's appeal was dismissed for failure to timely file the petition by Order of the Supreme Court of Virginia dated March 16, 2004. Thompson failed to comply with Rule 5:17(a)(1), which requires that the Petition for Appeal be filed within three months of the order appealed from in cases of an appeal directly from a trial court. Allen's petition was therefore due on January 15, 2004.
28. Thompson was appointed to represent Jalah Parker (Parker) in the Sussex Circuit Court for several felony charges. Parker was found guilty, and was sentenced on March 12, 2003. Thompson filed an appeal on Parker's behalf with the Court of Appeals of Virginia.
29. The Court of Appeals denied the appeal by Order dated October 15, 2003.
30. On October 29, 2003, Thompson filed a Petition for Appeal with the Supreme Court of Virginia. The petition did not contain assignments of error in the table of contents or in the brief, as required by Rule 5:17 of the Rules of the Supreme Court of Virginia.
31. By Order dated January 12, 2004, the Supreme Court of Virginia dismissed the Parker appeal for failure to comply with Rule 5:17(c), which requires that the petition contain specific assignments of error or it will be dismissed.

**II. NATURE OF MISCONDUCT**

Such conduct by Henry Allen Thompson constitutes misconduct in violation of the following provisions of the Rules of Professional Conduct:

As to VSB Docket No. 10-031-084194 (Parham):

**RULE 1.3 Diligence**

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

As to VSB Docket No. 11.031-086623 (Allen and Parker):

**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.

**III. PUBLIC ADMONITION WITHOUT TERMS**

Accordingly, it is the decision of the subcommittee to impose a Public Admonition Without Terms and Henry Allen Thompson is hereby so admonished.

Pursuant to Paragraph 13-9.E. of the Rules of Court, the Clerk of the Disciplinary System shall assess costs.

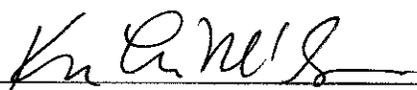
THIRD DISTRICT SUBCOMMITTEE, SECTION I  
OF THE VIRGINIA STATE BAR

By: \_\_\_\_\_

  
Stephanie E. Grana  
Chair

**CERTIFICATE OF MAILING**

I certify that on January 23<sup>rd</sup>, 2012, I caused to be mailed by certified mail a true and complete copy of the Subcommittee Determination Public Admonition Without Terms to Henry Allen Thompson, Respondent, at 108 Maifeld Avenue, P.O. Box 342, Waverly, VA 23890, Respondent's last address of record with the Virginia State Bar, and by first class mail, postage prepaid to Michael Rigsby, Esq., Respondent's Counsel, at P.O. Box 29328, Henrico, VA 23242.

  
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Kara L. McGehee  
Assistant Bar Counsel