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**VIRGINIA STATE BAR
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VIRGINIA:

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

IN THE MATTER OF
Jonathan Michael O'Connor

VSJ Docket No. 19-032-115505

SUBCOMMITTEE DETERMINATION
(PUBLIC REPRIMAND WITHOUT TERMS)

On June 29, 2020 a meeting was held in this matter before a duly convened Third District, Section II Subcommittee consisting of Annemarie DiNardo Cleary, Chair presiding; Guy Cameron Crowgey, Member; and John Nicoll, 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 Laura Ann Booberg, Assistant Bar Counsel, and Jonathan Michael O'Connor, Respondent, *pro se*.

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

I. FINDINGS OF FACT

1. For all times relevant hereto, Respondent has been an attorney licensed to practice law in the Commonwealth of Virginia.
2. Respondent represented Complainant, James J. Heath ("Heath") in the Richmond City Circuit Court on charges of malicious wounding. On March 24, 2016, Heath was convicted, and on June 21, 2016, he was sentenced to 10 years in jail with 6 years suspended. By order dated July 8, 2016, Respondent was court appointed to represent Heath on appeal.
3. Respondent filed a Petition for Appeal with the Court of Appeals on February 29, 2017, and the appeal was denied on June 16, 2017.

4. On July 17, 2017, Respondent filed a Petition for Appeal with the Supreme Court of Virginia (“the Supreme Court”).
5. On April 3, 2018, Heath wrote to Respondent and inquired about the status of the Supreme Court appeal. Respondent did not respond to the letter.
6. On May 18, 2018, the Supreme Court denied the appeal.
7. Heath claimed that Respondent did not tell him that the appeal was denied. Instead, Heath wrote to the Supreme Court himself. He received a letter from the Supreme Court dated January 16, 2019, informing him that his appeal was denied on May 18, 2018.
8. Respondent told Virginia State Bar Investigator Lisa Marshall (“Investigator Marshall”) that Heath called him from the corrections facility after the appeal was denied. According to Respondent, Heath indicated that he already knew that the Supreme Court denied the appeal. Heath asked him why he wasn’t involved in the appeal process; why there wasn’t a three-judge panel; and why Respondent had not visited him. Respondent concluded that there was no need to write to Heath to inform him of the denial.
9. On February 19, 2019, Heath received a letter from Supreme Court Chief Deputy Clerk Pitney (“Pitney”) explaining the time limits for filing petitions for writs of habeas corpus. Pitney also stated, “I am providing a copy of your February 4, 2019 letter, as well as this letter, to your attorney, who should be able to provide a copy of your file to you.”
10. Although the February 19, 2019 letter was not contained in Respondent’s case file, he admitted to Investigator Marshall that he received it. Respondent stated that he remembered copying the file and that he provided Heath with copies of transcripts and the petitions filed in both courts.
11. After receiving the information from the Supreme Court, Heath filed the instant complaint. Respondent did not submit a response to the bar complaint.
12. On August 6, 2019, the bar issued a subpoena to Respondent to produce Heath’s file by August 27, 2019. When Respondent did not produce the file, the bar issued a Notice of Noncompliance and Request for Interim Suspension (“the Notice”). Respondent had until September 9, 2019 to produce his file in response to the subpoena or request a hearing before the Disciplinary Board. The Notice was sent to Respondent by certified mail and email. The certified mailing receipt was received by the bar on September 3, 2019 marked “return to sender.” Respondent produced his file on September 11, 2019.
13. Heath provided Investigator Marshall with an Offender Request form dated May 13, 2019, in which he requested a log of all mail received while he was an inmate at the Department of Corrections. The form, signed by Postal Clerk W. Rice (“Rice”), states that Heath received mail from the Supreme Court on January 22, 2019, February 21, 2019 and April 22, 2019. He received mail from the Virginia State Bar on May 13, 2019.

Rice stated at the bottom of the form, "This is all the legal mail that is logged in the legal log book."

14. Heath also claimed that he was unable to reach Respondent by phone after the appeal was filed with the Supreme Court. Investigator Marshall obtained phone logs from the correctional facilities in which Heath was an inmate. The logs show that Heath never spoke to Respondent via telephone from the date of the Supreme Court denial through January 16, 2019 when he learned from the Supreme Court Clerk's Office that his appeal had been refused. The only call from Heath to Respondent occurred on April 6, 2017, when Heath was housed at Nottoway Correctional Facility almost a year before the Supreme Court denied his appeal.
15. Despite Respondent's statements to Investigator Marshall that Heath told him he knew about the denial, there is no evidence of communication between Respondent and Heath after the Supreme Court appeal was denied. There is no evidence that Respondent provided Heath with transcripts and petitions from his file.
16. The location and financial state of Respondent's law practice was in disarray at the time that the above conduct occurred. Respondent admits that the allegations are true, and he has since put systems in place within his office to monitor his files and deadlines so that he does not repeat the above conduct in the future.

II. NATURE OF MISCONDUCT

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

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 1.16 Declining Or Terminating Representation

(e) All original, client-furnished documents and any originals of legal instruments or official documents which are in the lawyer's possession (wills, corporate minutes, etc.) are the property of the client and, therefore, upon termination of the representation, those items shall be

returned within a reasonable time to the client or the client's new counsel upon request, whether or not the client has paid the fees and costs owed the lawyer. If the lawyer wants to keep a copy of such original documents, the lawyer must incur the cost of duplication. Also upon termination, the client, upon request, must also be provided within a reasonable time copies of the following documents from the lawyer's file, whether or not the client has paid the fees and costs owed the lawyer: lawyer/client and lawyer/third-party communications; the lawyer's copies of client-furnished documents (unless the originals have been returned to the client pursuant to this paragraph); transcripts, pleadings and discovery responses; working and final drafts of legal instruments, official documents, investigative reports, legal memoranda, and other attorney work product documents prepared or collected for the client in the course of the representation; research materials; and bills previously submitted to the client. Although the lawyer may bill and seek to collect from the client the costs associated with making a copy of these materials, the lawyer may not use the client's refusal to pay for such materials as a basis to refuse the client's request. The lawyer, however, is not required under this Rule to provide the client copies of billing records and documents intended only for internal use, such as memoranda prepared by the lawyer discussing conflicts of interest, staffing considerations, or difficulties arising from the lawyer-client relationship. The lawyer has met his or her obligation under this paragraph by furnishing these items one time at client request upon termination; provision of multiple copies is not required. The lawyer has not met his or her obligation under this paragraph by the mere provision of copies of documents on an item-by-item basis during the course of 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:

(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; or

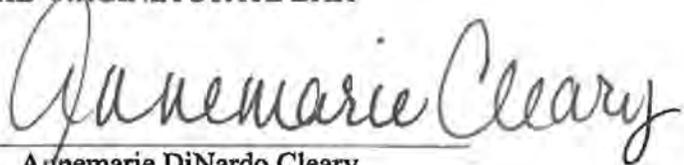
III. PUBLIC REPRIMAND WITHOUT TERMS

Accordingly, having approved the agreed disposition, it is the decision of the Subcommittee to impose a Public Reprimand without Terms and Jonathan Michael O'Connor 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 II SUBCOMMITTEE
OF THE VIRGINIA STATE BAR

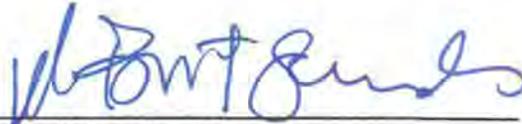
By:



Annemarie DiNardo Cleary
Subcommittee Chair

CERTIFICATE OF MAILING

I certify that on JULY 26, 2020, a true and complete copy of the Subcommittee Determination (Public Reprimand without Terms) was sent by certified mail to Jonathan Michael O'Connor, Respondent, at The O'Connor Law Firm, P.C., 1518 Willow Lawn Drive, 2nd Floor, Richmond, VA 23230-3419, Respondent's last address of record with the Virginia State Bar.



for Laura Ann Booberg
Assistant Bar Counsel

VIRGINIA:

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

IN THE MATTER OF
JONATHAN MICHAEL O'CONNOR

VSB Docket No. 19-032-115505

AGREED DISPOSITION
(PUBLIC REPRIMAND WITHOUT TERMS)

Pursuant to the Rules of the Supreme Court of Virginia, Part 6, § IV, ¶ 13-15.B.4, the Virginia State Bar, by Laura Ann Booberg, Assistant Bar Counsel, and Jonathan Michael O'Connor, Respondent, *pro se*, hereby enter into the following agreed disposition arising out of the referenced matter.

I. STIPULATIONS OF FACT

1. For all times relevant hereto, Respondent has been an attorney licensed to practice law in the Commonwealth of Virginia.
2. Respondent represented Complainant, James J. Heath ("Heath") in the Richmond City Circuit Court on charges of malicious wounding. On March 24, 2016, Heath was convicted, and on June 21, 2016, he was sentenced to 10 years in jail with 6 years suspended. By order dated July 8, 2016, Respondent was court appointed to represent Heath on appeal.
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(e) All original, client-furnished documents and any originals of legal instruments or official documents which are in the lawyer's possession (wills, corporate minutes, etc.) are the property of the client and, therefore, upon termination of the representation, those items shall be returned within a reasonable time to the client or the client's new counsel upon request, whether or not the client has paid the fees and costs owed the lawyer. If the lawyer wants to keep a copy of such original documents, the lawyer must incur the cost of duplication. Also upon termination, the client, upon request, must also be provided within a reasonable time copies of the following documents from the lawyer's file, whether or not the client has paid the fees and costs owed the lawyer: lawyer/client and lawyer/third-party communications; the lawyer's copies of client-furnished documents (unless the originals have been returned to the client pursuant to this paragraph); transcripts, pleadings and discovery responses; working and final drafts of legal instruments, official documents, investigative reports, legal memoranda, and other attorney work product documents prepared or collected for the client in the course of the representation; research materials; and bills previously submitted to the client. Although the lawyer may bill and seek to collect from the client the costs associated with making a copy of these materials, the

lawyer may not use the client's refusal to pay for such materials as a basis to refuse the client's request. The lawyer, however, is not required under this Rule to provide the client copies of billing records and documents intended only for internal use, such as memoranda prepared by the lawyer discussing conflicts of interest, staffing considerations, or difficulties arising from the lawyer-client relationship. The lawyer has met his or her obligation under this paragraph by furnishing these items one time at client request upon termination; provision of multiple copies is not required. The lawyer has not met his or her obligation under this paragraph by the mere provision of copies of documents on an item-by-item basis during the course of the representation.

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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:

(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; or

III. PROPOSED DISPOSITION

Accordingly, Assistant Bar Counsel and Respondent tender to a subcommittee of the Third District, Section II Committee for its approval the agreed disposition of a Public Reprimand without Terms as representing an appropriate sanction if this matter were to be heard through an evidentiary hearing by the Third District, Section II Committee.

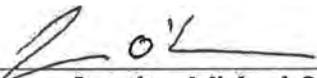
If the agreed disposition is approved, the Clerk of the Disciplinary System shall assess costs.

Pursuant to Part 6, § IV, ¶ 13-30.B of the Rules of the Supreme Court of Virginia, Respondent's prior disciplinary record shall be furnished to the subcommittee considering this agreed disposition.

THE VIRGINIA STATE BAR



FAR Laura Ann Booberg
Assistant Bar Counsel



Jonathan Michael O'Connor
Respondent