

VIRGINIA:

BEFORE THE FIFTH DISTRICT, SECTION II COMMITTEE
OF THE VIRGINIA STATE BAR

IN THE MATTER OF
DUNCAN KENNER BRENT

VSB Docket No. 22-052-124277

DISTRICT COMMITTEE DETERMINATION
(PUBLIC REPRIMAND WITH TERMS)

On February 15, 2023 a telephonic hearing in this matter was held before a duly convened Fifth District, Section II Committee panel consisting of Chidinma U. Harley, Chair Presiding; Staci H. Figueroa, Member; Craig A. Guthery, Member; Michael Kwang-Min Kim, Member; and Jennifer L. Neel, Lay Member.

Respondent Duncan Kenner Brent appeared *pro se*. Elizabeth K. Shoenfeld, Senior Assistant Bar Counsel, appeared as counsel for the Virginia State Bar (“VSB”).

During the hearing, the parties presented an Agreed Disposition for a Public Reprimand Without Terms. The panel considered the Agreed Disposition and initially rejected it because it did not include any remedial terms. The parties conferred and agreed to add the terms identified below. The panel considered and approved the Agreed Disposition as amended orally during the hearing.

Pursuant to Part 6, Section IV, Paragraph 13-16.Z of the Rules of Supreme Court of Virginia, the Fifth District, Section II Committee of the Virginia State Bar hereby serves upon Respondent the following Public Reprimand with Terms:

I. FINDINGS OF FACT

1. Respondent was admitted to the VSB in 1998. At all relevant times, Respondent was admitted to the VSB.
2. On January 15, 2019, Hassan El-Akwah met with Respondent to inquire about Respondent representing him in a claim regarding a January 31, 2017 motor vehicle accident. Respondent agreed to look at the case but asked El-Akwah to provide documentation regarding injuries, lost wages, and other expenses.

3. On January 29, 2019 – two days before the statute of limitations ran – El-Akwah met with Respondent again. El-Akwah brought some documentation with him, but Respondent said that he told El-Akwah that it was insufficient because it did not contain a diagnosis. El-Akwah still signed an agreement for Respondent to represent him. That same day, Respondent filed a Warrant in Debt with the Fairfax County General District Court.
4. After Respondent filed the lawsuit, he allowed this matter to “drop[] off his calendar.” Respondent said that he spoke with El-Akwah two or three times on the telephone to state that he needed documentation to support the damages claim.
5. The return date on the warrant in debt was scheduled for March 27, 2019. Although Respondent arranged for a private process server to serve the warrant in debt, the defendant was never served. On the return date, Respondent told the court that he was going to nonsuit the case.
6. Respondent never filed the motion for nonsuit and he never informed his client of his intent to nonsuit.
7. Respondent believed that after six months with no activity, the court purged the matter.
8. Because the statute of limitations had already expired and the case had not been nonsuited, the matter could not be re-filed.
9. Respondent did not communicate with El-Akwah between March 2019 and 2022, when the bar complaint was filed.

II. NATURE OF MISCONDUCT

Such conduct by Duncan Kenner Brent 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.

III. PUBLIC REPRIMAND WITH TERMS

Accordingly, having approved the Agreed Disposition as amended orally during the hearing, it is the decision of the District Committee to impose a Public Reprimand with Terms.

The terms are:

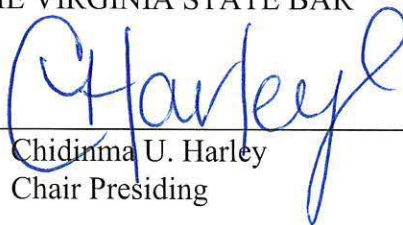
1. Within 30 days of the date of this District Committee Determination, Respondent must provide bar counsel with a document describing the processes and procedures he has implemented to ensure that all deadlines are met.
2. Within 90 days of the date of this District Committee Determination, Respondent must complete six hours of continuing legal education credits by attending courses approved by the Virginia State Bar in the subject matter of law office management. Respondent will certify his compliance with the terms set forth in this paragraph by delivering a fully and properly executed Virginia MCLE Board Certification of Attendance form (Form 2) to bar counsel, promptly following his attendance of each such CLE program(s).

Upon satisfactory proof that such terms and conditions have been met, this matter shall be closed. If, however, any of the terms and conditions is not met by the dates specified, the District Committee shall certify the matter to the Virginia State Bar Disciplinary Board for sanction determination pursuant to Part Six, Section IV, Paragraph 13-16.CC of the Rules of Supreme Court of Virginia. 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 Paragraph 13-9.E of the Rules of Court.

Pursuant to Part Six, Section IV, Paragraph 13-9.E of the Rules of Supreme Court of Virginia, the Clerk of the Disciplinary System shall assess costs.

FIFTH DISTRICT, SECTION II COMMITTEE
OF THE VIRGINIA STATE BAR

By _____


Chidinma U. Harley
Chair Presiding