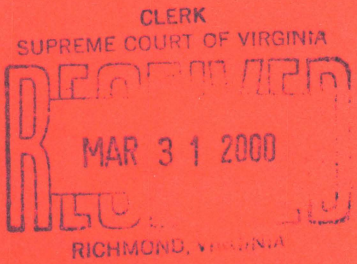


265Va 243

IN THE SUPREME COURT OF VIRGINIA

SUPREME COURT RECORD NO.

000392



VICTOR A. MOTLEY

Petitioner

v.

VIRGINIA STATE BAR

Respondents

APPENDIX

VICTOR A. MOTLEY

2817 North Avenue

Richmond, Virginia

(804) 329-6972

Petitioner

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VIRGINIA:

*In the Court of Appeals of Virginia on Monday the 15th
day of April, 1996.*

Brian Lee Rowe, Appellant,
against Record No. 2718-95-2
Circuit Court Nos. 95-257-F through 95-259-F
Commonwealth of Virginia, Appellee.

From the Circuit Court of the City of Richmond
Before Judge J. M. H. Willis, Jr.

This petition for appeal has been reviewed pursuant to Code
§ 17-116.05:2(C) and is denied for the following reasons:

I. "[W]hen a statute prescribes a maximum imprisonment
penalty and the sentence does not exceed that maximum, the sentence
will not be overturned as being an abuse of discretion." Abdo v.
Commonwealth, 218 Va. 473, 479, 237 S.E.2d 900, 903 (1977). "In
Hudson [v. Commonwealth], 10 Va. App. 158, 390 S.E.2d 509 (1990)], we
approved the trial court's finding that the 'guidelines as we have
them now are not binding but are used as a tool.' They are a factor
to be considered and used by the judge as he sees fit." Robinson v.
Commonwealth, 13 Va. App. 540, 542, 413 S.E.2d 661, 662 (1992)
(quoting Hudson, 10 Va. App. at 160, 390 S.E.2d at 510).

The sentences imposed by the trial court were within the
ranges set by the legislature. See Code §§ 18.2-32, 18.2-53.1, and
18.2-58. The failure of the trial court to memorialize the reasons
for its departure from the guidelines in its order is not reviewable.



on appeal. Code § 19.2-298.01(F). Accordingly, the trial court did not abuse its discretion.

II. Appellant pleaded guilty to six charges, as amended, pursuant to an agreement with the Commonwealth's Attorney. Prior to accepting appellant's pleas of guilty, the trial court ascertained whether appellant knew he faced possible sentences of forty years on each of the murder counts, life imprisonment on the robbery count, and mandatory sentences of thirteen years on the firearm charges. The court noted that appellant's pleas of guilty as an accessory make "him guilty of a major crime," and asked appellant if that was what he was "pleading guilty to." The court then stated that "[p]rior to fixing your punishment the Court will order a presentence report."

The sentencing guidelines prepared for appellant proposed a sentence between eight years five months and thirteen years two months. The court found the guidelines could not be followed because appellant faced a mandatory thirteen years on the firearm charges alone, without the additional charges of robbery and murder.

The court's questioning directed appellant's attention to the maximum sentences which could be imposed on him upon his plea of guilty.

If, upon the whole record, it appears that the defendant, at any time before sentencing, was fairly warned or otherwise made aware that the court was not bound to follow the recommendation of the Commonwealth's Attorney, then the defendant is in no position to claim that his plea was rendered "unknowing and involuntary," resulting in manifest injustice.

Lilly v. Commonwealth, 218 Va. 960, 963-64, 243 S.E.2d 208, 211 (1978). In this instance, there was no agreement on sentencing on remaining charges and, in fact, the Commonwealth's Attorney argued

against the sentences proposed pursuant to the guidelines. The record demonstrates that appellant was informed by the court about the possible sentences before the court accepted appellant's plea. The evidence further demonstrates that appellant's pleas were entered knowingly and voluntarily. Therefore, we find no error in the trial court's decision denying appellant's motion to withdraw his plea.

This order is final for purposes of appeal unless, within fourteen days from the date of this order, there are further proceedings pursuant to Code § 17-116.05:2(D) and Rule 5A:15(a).

A Copy,

Teste:

Cynthia L. McCoy, Clerk

By: .

Mary K. P. Ring
Deputy Clerk

707 East Main Street, Suite 1500
 Richmond, VA 23219-2900
 (804) 775-0570

JUN 24 1996

COMPLAINT FORM

VIRGINIA STATE BAR

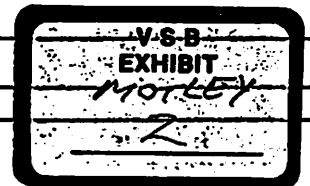
1. YOUR NAME: (Mr.) Claretta A. Rowe
 (Mrs.)
 (Ms.) (First) (Initial) (Last)
 ADDRESS: 1003 E-15th St HOME PHONE: (804) 232-1417
Richmond, VA BUSINESS PHONE: ()
 ZIP 23204 Note: Phone numbers are very important. Be sure to indicate them.

2. ATTORNEY COMPLAINED OF:
 NAME: Victor A. Motley, LTD
 (First) (Initial) (Last)
 STREET ADDRESS: 2817 North Avenue POST OFFICE ADDRESS:
Richmond, VA 23222
 ZIP 23222 ZIP
 Note: Be sure to include zip codes.
 TELEPHONE: (804) 329-6972

3. Have you filed a complaint about this matter anywhere else? If so, where? NO

4. Have you brought a civil or criminal action against this attorney? If so, indicate in what city or county and give the name, phone number and address of your new attorney:

not yet



5. DETAILS OF COMPLAINT:

my complaint of Victor motley is one of lies and deceit and total outright dishonesty. I feel helpless and totally betrayed. One of my initial complaints was his seemingly lack of concern for my son Brian Rowe (now incarcerated). When I hired mr. motley, it was because Brian was given his name by a fellow inmate. At this time, Brian was beginning to go to trial with a court appointed attorney. On our initial visit with mr. motley (my husband and myself) - mr. motley said 4

Caroline Koebe

(2) of 4

more dollars. Of which I signed a note to this effect. As of this date I have paid all of the 2nd \$2000 but at least \$50.00. He never sent any correspondence, most of Brian's calls to his office were never accepted; I am so distraught because at the writing of this letter (6/20) I have just gotten off the phone from talking to Mr. Motley. We were talking about the results of the appeal. This is the truth, he never let us know about the results until 6/6, and this was only because my son happened to call his office and he happened to accept his call. He told Brian that his appeal was denied. Brian called me. I called Mr. Motley. No letter of any kind was ever sent. He said on the phone when I asked him was there anything else that could be done, he said "NO" - (The appeal was denied was denied April 15) ~~the motion was, the motion~~ After talking to others, I found out it could be taken to the Supreme Court. When I confronted Mr. Motley about this, he said "It wouldn't do any good because he had

(3) of 4

tallied to some other attorney's. On June 13,
I asked for and received a copy of the appeal
denial. ~~(The next day)~~ At his office, I again
asked him was there anything else could
be done, he again stated "n/o", that
it wouldn't do any good, and that if he
did, he would have to have another
\$2,000.00. Well today, on the phone,
he told me that the only reason he
charged me the 1st \$1000.00 was because
he knew Brian was going to plead guilt.
SIRS, nothing was ever said to Brian
or myself at this time about pleading
guilty. He also now states that he mailed
me a copy of the appeal denial (SIRS, he
never mailed either myself or Brian anything)
now, he says it's too late, and that Brian
should get a court appointed lawyer to
represent him further. I think either
he didn't know what he was doing
on this case, or didn't care. Now,
we're at a loss as to what to do. What
can innocent & unsuspecting people do
to keep from becoming victims to such
lies and deceit?? The thing is,

Clara Rowe

④ of 4

all he had to do was not accept
Brian's case. That's all!

I also want to tell you that he
made us think Brian's plea was
the result of a plea bargain
agreement. I was not. The prosecuting
attorney at Brian's sentencing said
there was no plea bargain. We were
totally mis-informed right from
the start.

Thank you for letting me write you.
I felt someone needed to know.

Mrs. Clara A. Rowe

VICTOR A. MOTLEY, LTD.
ATTORNEY AND COUNSELOR AT LAW
2817 NORTH AVENUE
RICHMOND, VIRGINIA 23222

JUN 28 1996

VIRGINIA STATE BAR
TEL: (804) 329-6972
FAX: (804) 329-1703

P.O. BOX 25786
RICHMOND, VA. 23260

June 25, 1996

Virginia State Bar
c/o Harry M. Hirsch, Esq.
Eighth & Main Building
707 E. Main St, Suite 1500
Richmond, VA 23219

RE: Victor Alan Motley
VSB Docket #96-032-2545
Complainant: Claretha A. Rowe

Dear Mr. Hirsch:

When Mr. & Mrs. Rowe came to me their son was charged with 2 counts of capital murder. Brian Rowe was a accomplice with a Jerard Banks (see attached newspaper article).

Approximately 3 weeks prior to the scheduled trial, Mr. & Mrs. Rowe came to me stating that they were not satisfied with the Public Defender. The public defender wanted Brian Rowe to plead guilty to 2 counts of 1st degree murder.

After listening to Mr. & Mrs. Rowe's version of the facts, I advised them that I thought Brian should be charged with 2nd degree murder. I advised them that I would attempt to get the charge reduced to 2nd degree murder. For the \$1,000.00 fee, I was retained to plead Brian guilty to the lowest charge possible.

After being retained, I talked to Brian Rowe, I talked to detective Woody, I talked to Commonwealth Attorney Barry.

Barry after talking with Detective Woody agreed to amend the charge to 2nd degree murder.

Brian and Mr. & Mrs. Rowe were advised that the Commonwealth Attorney had agreed to reduce the charge to 2nd degree murder.

Brian agreed and plead guilty, voluntarily as set out in the enclosed transcript.

VSB
EXHIBIT
MOTLEY
3

Virginia State Bar
c/o Harry M. Hirsch, Esq.
June 25, 1996
Page 2

I had prepared a preliminary review of the sentencing guidelines which were consistant with the sentencing guidelines of the Pre-sentence Report. Brian was advised that the sentencing guidelines were discretionary. The trial judge refused to honor the sentencing guidelines and sentenced Brian to a total of 93 years as opposed to 13.02 maximum Sentence Range of the Sentencing Guidelines.

I was asked to appeal the trial judge's sentencing of Brian. It was already known to Mr. & Mrs. Rowe that you could not appeal a guilty plea.

Thus, we made a motion to withdraw the guilty plea. Said Motion was denied and was appealed.

Mrs. Rowe had been paying for the appeal in installments and to date she has not paid the total \$2,000.00 fee for the appeal. On numerous occasions she would call advising that she was coming in to make a payment but did not come in.

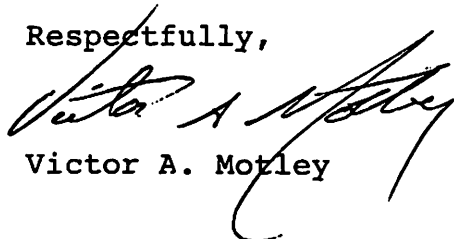
When the denial of Brian's appeal came in, about that time Mrs. Rowe had called stating she was coming in to make a payment. Mrs. Rowe did not come in. After several days passed, Mrs. Rowe was mailed a copy. Mrs. Rowe came in on May 10, 1996 and made a payment. I did not hear from Mrs. Rowe again until early June after Brian called and asked about the appeal and I advised him that it had been denied.

Again I was only retained to plead Brian guilty to the lowest charge possible.

It was known to Brian that the Sentencing Guidelines were discretionary and that a defendant could not appeal a guilty plea.

When I received the denial of the appeal it was mailed to Mrs. Rowe.

Respectfully,



Victor A. Motley

VAM/scg

cc: Mrs. Claretha A. Rowe

Youth agrees to life sentence

Plea made to avoid possible death term

BY ALAN COOPER

TIMES-DISPATCH STAFF WRITER

A 19-year-old youth agreed late yesterday to serve life in prison without parole to avoid the possibility of being sentenced to death.

Jerard Tyree Banks was accused of capital murder in the Jan. 19 shooting deaths of Heague "Hun" Yi, the owner of the Happy Mart convenience store at 5761 Hull Street Road, and Yi's friend, James E. Williams.

Banks confessed to Detective C.T. Woody Jr. less than 30 hours after the shooting. A co-defendant, 17-year-old Antonio Crews, testified against him and corroborated the confession.



But defense attorney Christopher J. Collins told a Richmond Circuit Court jury that the confession and Crews' testimony was

stopped short of establishing that the killings were "willful, deliberate and premeditated," an essential element for a capital murder conviction.

Collins conceded Banks was guilty of first-degree murder because the killings occurred during a robbery.

Jurors deliberated for about three hours, interrupting deliberations after about 90 minutes with a request for a definition of "willful, deliberate and premeditated." Judge James B. Wilkinson told them to apply the ordinary usage of the words.

By the time Wilkinson sent the jury home about 7:15 p.m., Collins and co-counsel Cary B. Bowen already had started negotiating a plea agreement with Deputy Commonwealth's Attorney Learned D. Barry.

The negotiations snagged briefly over whether Barry would seek the death penalty in another case involving Banks.

Banks decided to run the risk of another capital murder charge and signed the agreement.

He was sentenced to three life terms: one on the capital murder conviction, a second for the robbery of Yi and a third for using a sawed-off shotgun in the murder. He also was sentenced to eight years in prison on two other firearm charges.

Under a state law that applies to offenses committed after Jan. 1, Banks is ineligible for parole on the capital murder sentence.

Barry said he did not want to run the risk that a jury would find Banks guilty of first-degree murder and create the possibility of his release.

Collins said Banks "is not going to

PLEASE SEE BANKS, PAGE A3 ►

Stakes raised in

Called to serve

The war in Bosnia has hit home for one local man. With the U.S. Navy unable to meet its needs for combat forces from its active-duty members, Lt. Cmdr. James M. Wilson, a Navy Reserve aviator and Richmond lawyer, is bound for the Mediterranean. He's going into active duty with other members of his electronic warfare squadron based at Andrews Air Force Base.



Wilson

Article, Page A11

Clinton says U.S. troops may a

FROM WIRE REPORTS

COLORADO SPRINGS, Colo. — President Clinton stepped significantly deeper into the Bosnian crisis yesterday, saying the United States should be prepared to send U.S. forces to help U.N. peacekeepers move to more defensible positions.

The president stressed that he would not commit U.S. troops to a long-term role on the ground in Bosnia and promised to consult with Congress before taking any military action.

In a commencement address at the U.S. Air Force Academy, Clinton also noted that U.S. military help had not been requested by either the United Nations or NATO.

Despite all that, Clinton's words clearly moved the United States closer to direct military involvement in Bosnia's civil war, where more than 370 U.N. peacekeepers have been taken prisoner in recent days by Bosnian Serbs.

Republic fresh evidence be very difficult to gain the duction of 1 Senate Majority Sending Bosnia "a policy of re tor and fro dental non

The war another G even more "Preside ward war i appears th involve th year-old co "America



JUST IN CASE. A French peacekeeper had an antitank rocket at his side while his comrades checked an armored personnel carrier. Serb fighters with U.N. equipment moved into Sarajevo.

Teen agrees to serve life term in prison

▼ BANKS FROM PAGE A1

be on death row, and he's not going to the electric chair. That's a relief."

According to Banks' statement, Banks drove Crews, 18-year-old Brian Lee Rowe and an 11-year-old to the area of the store.

Banks urged Crews to take the shotgun and rob the store, but Crews refused and remained outside while the 11-year-old stayed in the car.

Banks and Rowe went into the

store, and Banks shot the victims at Rowe's urging. The two took about \$600 from the cash register.

Banks and Rowe were "just laughing about what happened," Rowe said the blood had flowed from Yi's face "like water," Banks' statement said.

The four returned to the home of Banks' girlfriend in the 1100 block of St. John Street, where Crews said Banks and Rowe divided the "big money" and allowed him and the 11-year-old to split the dollar bills.

Rowe is scheduled to be tried later

this month on charges of murder and robbery, and a robbery charge is pending against Crews in Richmond Juvenile and Domestic Relations District Court. He said prosecutors have agreed not to indict him on a murder charge in exchange for his cooperation against Banks and Rowe.

Barry said he believes Banks was involved in at least seven other robberies between Sept. 1 and Jan. 19, including instances in which two women were killed.

He said he expects to seek a capi-

tal murder indictment this month or next in the shooting death and robbery of Angela Owens, an employee of the First Heritage Insurance Agency at 2501 Broad Rock Blvd.

Owens, 43, was shot Jan. 10 and died 13 days later of complications from her wounds.

The other victim, Hsu Chu Liu, 56, was beaten to death with a baseball bat and robbed Nov. 22 outside the Golden Pagoda restaurant on East Belt Boulevard, where she worked as a cashier and waitress.



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LOTTERIES

Winning lottery numbers for Wednesday, May 31, from The Associated Press:

Virginia	Pick 3	0-4-1
Afternoon	Pick 4	6-5-2-4
Evening	Pick 3	6-4-4
	Pick 4	9-3-9-3
	Cash 5	11-17-21-29-30
	Lotto	10-15-23-26-27-33

Delaware	Daily	5-1-1
Afternoon	Play 4	2-7-3-7
Evening	Daily	2-7-0
	Play 4	1-9-3-1

District of Columbia	Lucky Numbers	0-4-7
Midday	Four	3-7-8-3
Evening	Lucky Numbers	9-1-2
	Four	2-4-5-9
	Quick Cash	19-37-24-01-09-17

Florida	Cash 3	3-9-4
	Play 4	7-6-6-9

Maryland	Daily	8-7-0
Afternoon	Pick 4	1-4-5-7
Evening	Daily	6-3-1
	Pick 5	4-0-6-4
	Lotto	5-6-20-24-37-39

Massachusetts	Daily	2-1-5-6
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New Jersey	Pick 3	9-5-9
	Pick 4	8-2-4-9

New York	Daily	7-4-8
	Win 4	9-5-3-5
	Pick 10	10-12-17-24-25-26-32-33-36-38-42-48-49-52-56-58-72-73-75-76
	Take 5	4-14-16-29-37

Pennsylvania	Daily	2-2-2
	Big 4	0-4-7-8
	Hearts & Diamonds	10-11-12-13-14-15-16-17-18-19-20

West Virginia	Daily 3	3-6-4
	Play 4	1-2-3-4

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VIRGINIA:
IN THE CIRCUIT COURT OF THE CITY OF RICHMOND
Manchester Division

COMMONWEALTH OF VIRGINIA
-vs-
BRIAN LEE ROWE

FILE NOS. 95-257F
95-258F
95-259F
95-260F

Transcript of the Trial in the above-styled
matter, when heard on June 19, 1995, before the Honorable
James B. Wilkinson.

APPEARANCES:

LEARNED D. BARRY, ESQ., Deputy Commonwealth's Attorney for
the City of Richmond;
VICTOR A. MOTLEY, ESQ., 2817 North Avenue, Richmond,
Virginia, counsel for the defendant;
The defendant, Brian Lee Rowe, present in person.

1 MR. BARRY: Judge, this is the
2 defendant, Brian Rowe. He will be arraigned
3 shortly. He will be pleading to a robbery of
4 one individual, the use of a firearm, the
5 second degree murder of another individual the
6 principal in the second degree, and use of a
7 firearm. And he also is pleading to second
8 degree murder of another individual, use of a
9 firearm, and, again, he is the principal in the
10 second degree. He is not the shooter in this
11 case.

12 THE COURT: Yes, I know. This is the
13 companion case, the one I heard the other day?

14 MR. BARRY: That's correct.

15 THE COURT: All right.

16 THE CLERK: In the matter of the
17 Commonwealth against Brian Lee Rowe. Is the
18 Commonwealth ready to proceed?

19 MR. BARRY: Yes.

20 THE CLERK: Is the defense ready?

21 MR. MOTLEY: Yes, ma'am.

22 THE CLERK: Brian Lee Rowe, you stand
23 charged that on or about January 19th, 1995,
24 did feloniously and unlawfully kill and murder
25 one Hecque Yi. Do you plead guilty or not

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guilty?

THE DEFENDANT: Guilty of second degree.

THE CLERK: And, you stand charged that on or about January 19th, 1995, did unlawfully and feloniously use or display in a threatening manner a firearm while, during, and in the commission of the murder of Hecque Yi. Do you plead guilty or not guilty?

THE DEFENDANT: Guilty of aiding and abetting.

THE CLERK: And, you stand charged that on or about January 19th, 1995, did feloniously and unlawfully kill and murder one James Edward Williams. Do you plead guilty or not guilty?

THE DEFENDANT: Guilty in the second degree.

THE CLERK: And, you stand charged that on or about January 19th, 1995, did unlawfully and feloniously use or display in a threatening manner a firearm while, during, and in the commission of the murder of James Edward Williams. Do you plead guilty or not guilty?

THE DEFENDANT: Guilty of aiding and

1 abetting.

2 THE CLERK: And, you stand charged
3 that on or about January 19th, 1995, did
4 feloniously and unlawfully rob Hecque Yi of
5 United States currency. Do you plead guilty or
6 not guilty?

7 THE DEFENDANT: Guilty.

8 THE CLERK: And, you stand charged
9 that on or about January 19th, 1995, did
10 unlawfully and feloniously use or display in a
11 threatening manner a firearm while, during, and
12 in the commission of the robbery of Hecque Yi.
13 Do you plead guilty or not guilty?

14 THE DEFENDANT: Guilty of second
15 degree.

16 THE COURT: Well, is he pleading
17 guilty as an accessory?

18 MR. MOTLEY: Yes. Guilty as an
19 accessory, yes, sir.

20 THE COURT: That makes him guilty of
21 a major crime. Is that what you're pleading
22 guilty to, sir, robbery?

23 THE DEFENDANT: Yes.

24 THE COURT: All right. You may have
25 your seat.

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MR. BARRY: Judge, you're well aware of the facts in the case. This is the case where we had some individuals go to a store here in south Richmond.

THE COURT: I remember the facts very well from the other case.

MR. BARRY: All right. Detective Woody was involved in the investigation in this case. He interviewed all the juveniles, then interviewed Mr. Rowe. Mr. Rowe confessed to him as to his part in the robbery and the actual taking of the money. He knew Mr. Banks had gone in there with a shotgun.

THE COURT: Do you have a copy of the confession?

MR. BARRY: Well, it's a tape, Judge.

THE COURT: Tape. Okay.

MR. BARRY: I would be more than happy to introduce it if you would so desire.

THE COURT: Well, I think it's in the other trial.

MR. BARRY: It is.

THE COURT: The tape is in the Banks case so if some future circumstances make it necessary we will know where it is.

1 MR. BARRY: That's right. Plus
2 Detective Woody, who did the interview, has a
3 copy of it.

4 THE COURT: All right. Stand up,
5 please. How old are you?

6 THE DEFENDANT: Eighteen.

7 THE COURT: Eighteen. When were you
8 18?

9 THE DEFENDANT: Last October.

10 THE COURT: What was the date of the
11 offense? Was he 18 at the time?

12 THE CLERK: Yes, sir.

13 MR. MOTLEY: Yes, sir. January.

14 THE COURT: Well, I will do a little
15 voir dire a little bit further than this. You
16 know what you're pleading guilty to. You're
17 pleading guilty to two counts of second degree
18 murder. Do you understand that?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: And, the maximum sentence
21 on that is 40 years on each count. Do you
22 understand that?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: The robbery can carry up
25 to life in the penitentiary. Do you understand

1 that?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Of course, the firearm,
4 starting with the first one is three years and
5 then five and five. They are mandatory
6 sentences. Do you understand that?

7 THE DEFENDANT: Yes.

8 THE COURT: Pardon?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Sir, do you understand
11 exactly what's going on this morning and what
12 you're pleading guilty to?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: All right. Based on your
15 pleas of guilty and the evidence previously
16 heard by the Court and your confession, the
17 Court will find you guilty of ~~second~~ degree
18 murder in each indictment, the use of a firearm
19 in each of the counts, and also guilty of the
20 robbery. I believe that you want to order a
21 presentence report?

22 MR. MOTLEY: Yes, sir.

23 THE COURT: All right. Prior to
24 fixing your punishment the Court will order a
25 presentence report. How about around August

the 1st?

MR. MOTLEY: August 1 is fine.

THE COURT: In the meantime you're committed to the custody of the Sheriff.

MS. LANGER: Can we put one other matter on the record that the Public Defender's Office has been relieved and Mr. Motley is now counsel?

THE COURT: The defendant is present and the Public Defender's Office has been relieved and he has a private attorney, which has been retained?

MR. MOTLEY: Yes, sir.

THE COURT: All right, sir.

THE CORBY GROUP 1-800-255-5040 LASER STOCK FORM FMSRN

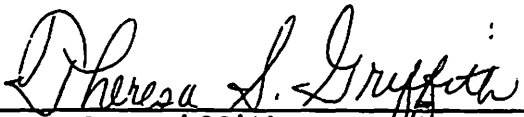
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CERTIFICATE OF COURT REPORTER

I, Theresa S. Griffith, hereby certify that I was the court reporter in the Circuit Court of the City of Richmond, Manchester Division, on June 19, 1995, at the time of the hearing herein.

I further certify that the foregoing transcript is true and accurate, to the best of my ability.

Given under my hand this 5th day of December, 1995.


Theresa S. Griffith - Court Reporter

2/100
2/26 1996 No.
RECEIVED OF Ronnie Williams
One Hundred and 00/100 DOLLARS
(Hundred and)
BY Victor A Matley / reg

2/63 1997 No.
RECEIVED OF ERNEST STEPHENS
Two Hundred Fifty and 00/100 DOLLARS
Bolivia \$50.00
BY Victor A Matley / reg

3/1 1996 No.
RECEIVED OF Melvin Thomas
One Hundred and 00/100 DOLLARS
Total \$20.00
BY Victor A Matley / reg

3/5 1996 No.
RECEIVED OF Claretha Lowe
One Hundred Fifty and 00/100 DOLLARS
Claretha Lowe
BY Victor A Matley / reg

PHONE MESSAGE		DATE	TIME	AM P.M.
FOR	VAM			
M	Mrs. Rowe			
OF				
PHONE ()	232-1417		EXT.	
<input type="checkbox"/> FAX	<input type="checkbox"/> MOBILE	<input type="checkbox"/> PAGER ()		
MESSAGE				
On April 15th she will				
pay \$350 - \$400 & the balance				
the following month				
AVERY				SIGNED <i>DCY</i>

<input type="checkbox"/>	URGENT
<input type="checkbox"/>	PHONED
<input type="checkbox"/>	RETURNED YOUR CALL
<input type="checkbox"/>	PLEASE CALL BACK
<input type="checkbox"/>	WILL CALL AGAIN
<input type="checkbox"/>	WAS IN
<input type="checkbox"/>	WANTS TO SEE YOU

RECEIVED OF

Joseph Bentley

5/10 1996 No.

One Hundred and 00/100

DOLLARS

bal. \$500

BY

Victor A. Motley / reg

RECEIVED OF

Angela Blackwell

5/6 1996 No.

One Hundred and 00/100

DOLLARS

Spaition Agreement

BY

Victor A. Motley / reg

RECEIVED OF

Charatha Rowe

5/10 1996 No.

One Hundred and 00/100

DOLLARS

Brian Rowe

Balance 650.00

BY

Victor A. Motley / reg

RECEIVED OF

Russell Harrison

5/21 1996 No.

Twenty-five and 00/100

DOLLARS

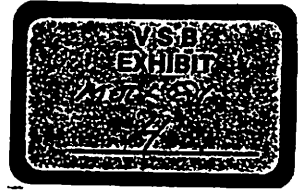
BY

Victor A. Motley / reg

Claretta A. Rowe
1003 E. 15th St
Rich, VA 23224

RECEIVED

JUL 9 1996



July 7, 1996

VIRGINIA STATE BAR

This is in response to my complaint
against Victor Motley, Att.

When, on our initial visit to Mr. Motley's
office, (my husband and myself), Mr. Motley
never discussed my son pleading guilty to
anything. I asked him what he charged, he
said \$1,000.00 (altho it did seem to me such a small
amt. of money, I didn't think any more about it.)
I gave Mr. Motley a Cashier's check for
\$1,000.00. I asked him had he heard about
Brian's case on the news, to which he
said no, he had heard nothing (again, I
thought this strange since it was all on
the news and in the newspapers.) He
said he had a copy of Brian's taped confession,
and I asked him ~~was~~ was he going to
listen to it. He said no, he didn't need to.
Then I asked him did he need to know
something about Brian's background; again
he said no, he didn't need to know (again, I
thought this strange) He never once discussed
anything about Brian pleading guilty.

(2)

After about 2-3 wks, Mr. Motley informed me that he had gotten Brian's charges reduced to 2nd degree murder, and robbery. Only 3 counts. nothing was ever said about firearms charges or pleading guilty to anything else. He assured my husband and myself that the maximum Brian could get was 12 years on all charges. I only learned about him pleading guilty to firearms charges until that day in court. I was astounded. Brian said Mr. Motley came to his cell in the court that morning and advised him to plead guilty to all those charges. Nothing was ever said about witnesses or anything. The judge ordered a pre-sentence report, and again Mr. Motley assured us that Brian would get no more than 12 years.

Mr. Motley manipulated everything so that the result would be the easiest way out for the amt. of money he charged.

3.

On June 4th or 5th - Brian called to say he had called Mr. Motley about his appeal - and had also called 2-3 times the past week and his calls were not answered) - Mr. Motley told him it was not heard. I immedi. called Mr. Motley and he told me the court denied a hearing on the matter. I asked him was there anything else that could be done. He stated "no". A week later, after learning that there could be an appeal - I visited Mr. Motley in his office. He said he would do no good to further the appeal. He had talked to some more attorneys. I asked him for a copy of the denial paper or what he gave it to me this day. (He never mailed anything to our home). At this visit, he said he would have to have another \$2,000 to further the appeals process. I had already paid \$15,000 of the 1st. \$2,000 extra he had charged me. At this visit he never mentioned he had mailed a copy of the denial

4,

to me. Our conversation and his tone of voice changed drastically. He said I never asked to retain him. I said "are you going to further the appeal?" He said it would do no good. Anyway, he said it was too late - the deadline was gone. I told him he was a very dishonest attorney.

Brian, has received a letter from court that Mr. Motley could have but didn't further the appeal. (Brian was inquiring on his own about this.)

Mr. Motley failed to let us know of deadlines, etc.

I have all the receipts of money paid to him.

At Brian's sentencing, Mr. Motley again called attention to plea agreement, of which the prosecutor's attorney said there was none.

MR. Motley was not retained to plead Brian guilty. This was his own doing. He assumed everything and told us nothing. MR. Motley was retained to represent Brian, whether by trial or otherwise.

At the time of his being asked to rep. Brian, Brian was getting ready to go to trial with his court appointed att. Mary Langer. His words to me at his office the last time I visited him was, Brian was the main man. ^{!?!?} I don't know ~~what~~ why he would make such a statement.

He voluntarily withdrew himself from the case even after I had asked him to further Brian's appeal, and sent me a letter stating I never asked him, that's not true. I did ask him and he stated a figure of another \$2,000.00. Would he have quoted me a price if I had not asked him to cons. to rep. Brian?

The sad thing is, ~~he~~ thru the whole time, he never inquired about Brian, where he was, or anything. He never wrote him, and most times, never accepted his calls.

My son and myself were never given complete details on information. (Mr. Motley) just took adv. of a sad situation. My last payment to Mr. Motley was by money order and thru the mail.

Brian didn't know what he was doing pleading guilty to all those charges. In court, he only repeated what Mr. Motley told him to say.

This is the content of Mr. Motley's and myself last conversation together over the phone: He had sent me a letter stating that he had not been called to see Brian further which was not true. I had asked him to put

7
In writing that he thought it
would do no good to further
Brian's appeal.

me. "Mrs. Motley, why did you send
me this letter stating you were
not asked to represent Brian further,
when I asked you a couple hours
ago where anything else that could
be done, and you said, 'it would
do no good!'"

Am. "Well, it wouldn't, and anyway, it's
too late."

me: "That's because you didn't let us know
until it was too late."

Am. "I sent you a letter."

me. "No you didn't, that's not true. If you
had mailed something to my home, I would
have gotten it." And anyway, you
never reached Brian anything, and he's gone.

8

- Client''

Hm! That's because all my correspondence
has been thru you.

me! Mr. Motley, you are a day dohonest
Attorney. Good day! I hang up.



Virginia State Bar

Eighth and Main Building
707 East Main Street, Suite 1500
Richmond, Virginia 23219-2803
Telephone: (804) 775-0500

Facsimile: (804) 775-0501 TDD: (804) 775-0502

December 3, 1996

PERSONAL AND CONFIDENTIAL

Victor Alan Motley, Esq.
P.O. Box 25786
Richmond, VA 23260-5786

Re: In the Matter of Victor Alan Motley
VSB DOCKET NO. 96-032-2545

Dear Mr. Motley:

Your letter dated November 18, 1996 addressed to John S. Barr has been forwarded to me for appropriate response.

Upon the Subcommittee Determination (Dismissal with Terms) having been issued to you, you have two choices from which to decide what you wish to do under the applicable procedural rules.

One choice is to accept the determination, fulfill the term imposed, and upon proof of compliance the matter will be closed. This will leave you with the determination a part of your disciplinary record.

The second choice is not to accept the determination and take the matter to a hearing before the Third District Committee for its decision, and thus render moot the Subcommittee Determination previously issued to you.

I point out the above for the purpose of asking you what you intended by your November 18, 1996 letter.

The language of the Subcommittee Determination reflects that which was learned by talking to the various witnesses in this matter.

Please let me hear from you.

Very truly yours,

A handwritten signature in dark ink, appearing to read 'H. M. Hirsch', written in a cursive style.

Harry M. Hirsch
Deputy Bar Counsel

cc: John S. Barr, Esq., Chair



Virginia State Bar

Eighth and Main Building
707 East Main Street, Suite 1500
Richmond, Virginia 23219-2803
Telephone: (804) 775-0500

Facsimile: (804) 775-0501 TDD: (804) 775-0502

January 22, 1997

PERSONAL AND CONFIDENTIAL

NOTICE OF HEARING

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
#Z 271 014 829

Victor Alan Motley, Esq.
P.O. Box 25786
Richmond, VA 23260-5786

Re: In the Matter of Victor Alan Motley
VSB Docket No.96-032-2545

Dear Mr. Motley:

Pursuant to the Rules of Court, Part 6, Section IV, Paragraph 13(B)(6)(a), I am hereby serving you with Notice of Hearing in the above-referenced matter.

The hearing will be held on Friday, February 14, 1997, in the offices of the Virginia State Bar located at Suite 1500, 707 East Main Street, Richmond, VA 23219, at 9:00 a.m. At that time, the committee will consider allegations that you have engaged in conduct contrary to the Code of Professional Responsibility as set forth hereinafter:

1. At all times relevant hereto the Respondent, Victor Alan Motley [Motley], has been an attorney licensed to practice law in the Commonwealth of Virginia.

2. Motley was retained by Brian Rowe [Rowe] to represent him with respect to the following charges pending against him as a result of a robbery and murders which occurred at the Happy Mart convenience store in 1995 in Richmond: two counts of first degree murder, one count of robbery, and three counts of use of a firearm. The retainer fee was One Thousand Dollars (\$1,000.00). Motley was retained for the purpose of pleading Rowe guilty to the lowest possible charges.

3. As a result of contact by Motley with the prosecutor Rowe was able to, and did, plead guilty to two counts of second degree murder, one count of robbery, and three counts of use of a firearm.

4. Prior to entering any pleas, Motley had told Rowe and Rowe's parents that he expected Rowe to be sentenced according to the sentencing guidelines and to a term of about thirteen years. Motley argued unsuccessfully the application of the sentencing guidelines to Rowe's charges. Rowe was sentenced to Ninety-Three (93) years in the penitentiary.

5. After sentencing, Rowe's parents asked Motley what could be done and Motley agreed to appeal the case for an additional fee of Two Thousand Dollars (\$2,000.00). Rowe's parents, who had paid Motley's fee and met with him about the

case, were not aware that a guilty plea negated the right to appeal. Rowe thought that Motley's post sentencing efforts were for the purpose of obtaining a new trial.

6. Motley filed a motion to withdraw the guilty pleas or, in the alternative, for reconsideration of the sentence. Upon denial he appealed the denial to the Court of Appeals.

7. The Court of Appeals denied the petition for appeal noting, inter alia, that the sentencing guidelines calling for a maximum of thirteen years two months could not be applied to Rowe because of the mandatory sentences for the firearms charges alone totalling thirteen years.

8. Motley failed to inform either Rowe or his parents of the denial of the petition of appeal by the Court of Appeals in time to allow them to decide whether to appeal further.

The following authorities may be applicable to the alleged misconduct:

DR 6-101. Competence and Promptness.

- (C) A lawyer shall keep a client reasonably informed about matters in which the lawyer's services are being rendered.

Very truly yours,



Harry M. Hirsch
Deputy Bar Counsel

cc: John S. Barr, Esq., Chair
Clerk of the Disciplinary System

VIRGINIA:

IN THE CIRCUIT COURT OF THE CITY OF RICHMOND

BRIAN LEE ROWE, #229500,

Petitioner

v.

CASE NO. CL96-1263

**DIRECTOR, VIRGINIA DEPARTMENT OF
CORRECTIONS,**

Respondent

ANSWER

Respondent, by counsel, answers the allegations contained in the petition for a writ of habeas corpus as follows:

1) Petitioner is being detained pursuant to a judgment of the City of Richmond Circuit Court issued on June 19, 1995, wherein he plead guilty to two counts of second degree murder, two counts of use of a firearm in the commission of murder and one count of robbery. (Case Nos. 95-257-F, 95-258-F, 95-259-F). He was sentenced on August 1, 1995 to serve 93 years in prison.

2) Petitioner is attacking the aforementioned conviction on the ground that his trial counsel, Victor Motley, Esq. was ineffective for:

A) Failing to perfect an appeal to the Virginia Supreme Court following the Virginia Court of Appeal's refusal to hear his appeal, or, in the alternative, to seek review of the decision by a three judge panel of the Virginia Court of Appeals.

3) The respondent concedes that Rowe was denied the right to effective assistance

of counsel on a second-level appeal that was identified in Dodson v. Director, 233 Va. 303, 355 S.E.2d 573 (1987). Accordingly, Rowe is entitled to pursue a delayed appeal to the Supreme Court of Virginia.

- 4) The respondent denies each and every allegation not expressly admitted herein.

WHEREFORE, the respondent prays that the petition for a writ of habeas corpus be granted solely on the claim of denial of a second-level appeal and that the Commonwealth be directed to petition the Supreme Court of Virginia for the right of the petitioner to pursue a delayed appeal.

Respectfully submitted,

RONALD ANGELONE, DIRECTOR
VIRGINIA DEPARTMENT OF CORRECTIONS
Respondent herein.

By: _____

Counsel

Kimberley A. Whittle
Assistant Attorney General
900 East Main Street
Richmond, Virginia 23219

CERTIFICATE OF SERVICE

I hereby certify that on this 4th day of February, 1997 true copies of the foregoing Answer and corresponding proposed Order were mailed Brian Lee Rowe, #229500, Brunswick Correctional Center, 1147 Planters Road, Lawrenceville, Virginia 23868.



Kimberley A. Whittle
Assistant Attorney General

VIRGINIA:

IN THE CIRCUIT COURT OF THE CITY OF RICHMOND

BRIAN LEE ROWE, #229500,

Petitioner

FEB 10 1997

v.

CASE NO. CL96-1263

**DIRECTOR, VIRGINIA DEPARTMENT OF
CORRECTIONS,**

Respondent

ORDER

Upon mature consideration of the petition of Brian Lee Rowe for a writ of habeas corpus and the answer of the respondent, the Court finds that the petitioner was not timely notified of the availability of an appeal to the Virginia Supreme Court by his attorney, as is required by law.

WHEREFORE, the Court is of the opinion that the petitioner has been denied his right to appellate review and that the writ of habeas corpus should be granted; it is, therefore,

ORDERED that the petition for a writ of habeas corpus be granted on the allegation of denial of a second-level appeal.

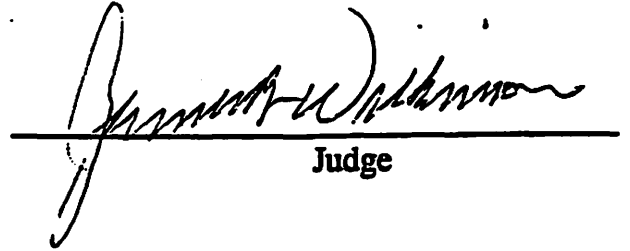
It is further ORDERED that the Commonwealth petition the Supreme Court of Virginia for the right of the petitioner to seek a delayed second-level appeal to that Court from the judgment of the Court of Appeals, dated April 15, 1996, Record No. 2718-95-2, or to retry the petitioner if the Commonwealth be so advised. This matter will be retained on the Court's docket for further action consistent with this Order.

The Clerk is directed to send a certified copy of this Order to the petitioner and to

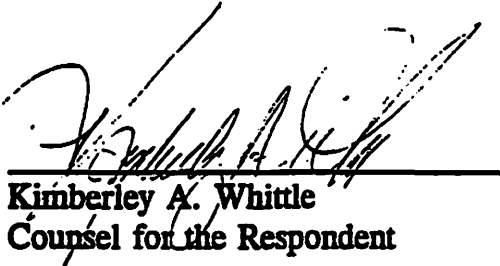


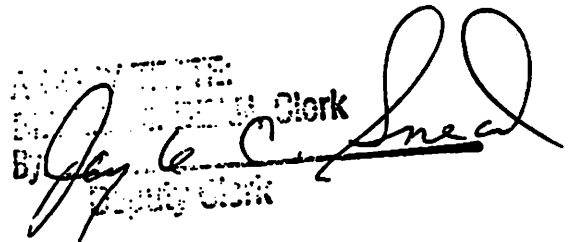
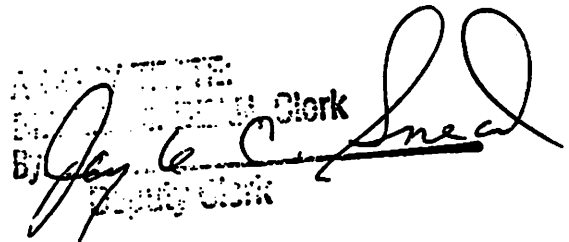
Kimberley A. Whittle, Assistant Attorney General.

Entered this the 10th day of Feb, 1997.


Judge

I ask for this:


Kimberley A. Whittle
Counsel for the Respondent


Clerk
By 
Deputy Clerk

VIRGINIA:

IN THE SUPREME COURT

**COMMONWEALTH OF VIRGINIA,
Petitioner,**

v.

**RECORD NO. _____
COURT OF APPEALS RECORD NO. 2718-95-2
CIRCUIT COURT NO. 95-257F;
95-258F; 95-259F; 95-260F**

**BRIAN LEE ROWE,
Respondent.**

MOTION

The Commonwealth of Virginia, by counsel, represents to this Court as follows:

1) On June 19, 1995, Brian Lee Rowe was convicted in the Circuit Court of the City of Richmond, upon a plea of guilty, of two counts of second degree murder, two counts of use of a firearm in the commission of murder and one count of robbery and sentenced to serve prison terms totalling 93 years.

2) On February 10, 1997, an Order was entered by the Circuit Court of the City of Richmond finding that Brian Lee Rowe was denied his right to a second-level appeal because counsel had failed to timely advise him of his right to appeal the decision of the Court of Appeals of Virginia, dated April 15, 1996, denying his petition for appeal. The Court directed the Commonwealth to apply to this Court for leave for Rowe to belatedly file a petition for appeal from the aforesaid convictions. (See Exhibit I, copy of Court Order).

3) It is represented unto this Honorable Court that there is available a copy of the transcript of the trial of Brian Lee Rowe.

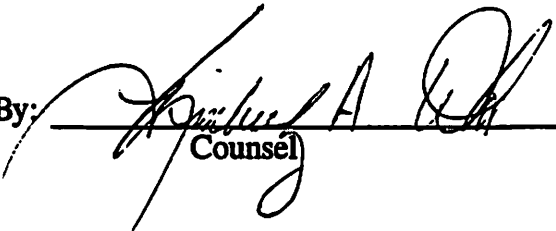
4) The Commonwealth represents that in the interest of justice, Rowe should be

permitted to perfect a second-level appeal to this Court from the decision of the Court of Appeals, which affirmed his convictions.

WHEREFORE, the Commonwealth of Virginia prays that this Court enter an Order permitting Brian Lee Rowe to belatedly file a petition for appeal to this Court from the judgment of the Court of Appeals dated April 15, 1996, Record No. 2718-95-2.

Respectfully submitted,

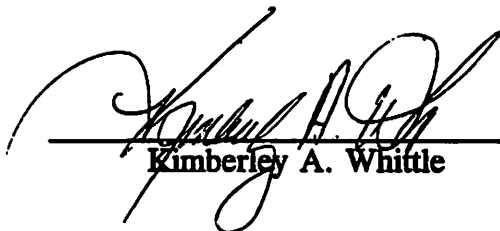
COMMONWEALTH OF VIRGINIA

By: 
Counsel

Kimberley A. Whittle
Assistant Attorney General
900 East Main Street
Richmond, Virginia 23219

CERTIFICATE OF SERVICE

On February 27, 1997 a copy of the foregoing motion was mailed to petitioner, Brian Lee Rowe, #229500, Brunswick Correctional Center, 1147 Planters Road, Lawrenceville, Virginia 23868.


Kimberley A. Whittle

VICTOR A. MOTLEY, LTD.
ATTORNEY AND COUNSELOR AT LAW
2817 NORTH AVENUE
RICHMOND, VIRGINIA 23222

P.O. BOX 25786
RICHMOND, VA. 23260

TEL: (804) 329-6972
FAX: (804) 329-1703

March 13, 1997

Atty. Kimberly A. Whittle
Asst. Attorney General
800 E. Main Street
Richmond, VA 23219

RE: Brian Lee Rowe
v.
Dir. Va. Dept. of
Corrections
Case No.: CL96-1263

Commonwealth
v.
Brian Lee Rowe
Court of Appeals Record No.:
2718-95-2

Dear Ms. Whittle:

Thank you for forwarding me a copy of your Answer and Motion with respect to the above referenced on March 12, 1997.

For the record I want it known that your Answer and Order was entered without ever having a oral conversation with me. When you wrote me on December 30, 1996 I forwarded to you a complete copy of my file which included a VA State Bar Subcommittee Determination dated November 15, 1996 along with my response to the VA State Bar's findings with a phone bill attached. (attached)

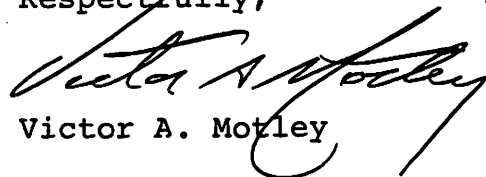
From the response to the VA State Bar it was known that I disagreed with the finding that Rowe was not informed of the denial of his appeal.

For you to concede that there was ineffective assistance of counsel without ever orally speaking with me or questioning me ore tenues is to find me liable/guilty without Due Process of Law.

Atty. Kimberly A. Whittle
March 13, 1997
Page 2

I am not asking that you respond but for the record,
I wish to state my objection to your consession.

Respectfully,

A handwritten signature in cursive script, appearing to read "Victor A. Motley".

Victor A. Motley

cc: Richmond Circuit Court
Manchester Division

Supreme Court of Virginia

VIRGINIA:

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

IN THE MATTER OF

VICTOR ALAN MOTLEY
VSB Docket # 96-032-2545

SUBCOMMITTEE DETERMINATION
(DISMISSAL WITH TERMS)

On November 8, 1996, a meeting in this matter was held before a duly convened Third District, Section Two, Subcommittee consisting of Thaddeus T. Crump, Lay Member; Cary A. Ralston, Esq.; and John S. Barr, Esq., chair, presiding.

Pursuant to Part 6, § IV, ¶ 13(B)(5)(b)(ii) of the Rules of the Supreme Court, the Third District, Section Two, Subcommittee of the Virginia State Bar hereby serves upon the Respondent the following Dismissal with Terms:

I. FINDINGS OF FACT

1. At all times relevant hereto the Respondent, Victor Alan Motley [Motley], has been an attorney licensed to practice law in the Commonwealth of Virginia.

2. Motley was retained by Brian Rowe [Rowe] to represent him with respect to the following charges pending against him as a result of a robbery and murders which occurred at the Happy Mart convenience store in 1995 in Richmond: two counts of first degree murder, one count of robbery, and three counts of use of a firearm. The retainer fee was One Thousand Dollars (\$1,000.00). Motley was retained for the purpose of pleading Rowe guilty to the lowest possible charges.

3. As a result of contact by Motley with the prosecutor Rowe was able to, and did, plead guilty to two counts of second degree murder, one count of robbery, and three counts of use of a firearm.

4. Prior to entering any pleas, Motley had told Rowe and Rowe's parents that he expected Rowe to be sentenced according to the sentencing guidelines and to a term of about thirteen years. Motley argued unsuccessfully the application of the sentencing guidelines to Rowe's charges. Rowe was sentenced to Ninety-Three (93) years in the penitentiary.

5. After sentencing, Rowe's parents asked Motley what could be done and Motley agreed to appeal the case for an additional fee of Two Thousand Dollars (\$2,000.00). Rowe's parents, who had paid Motley's fee and met with him about the case, were not aware that a guilty plea negated the right to appeal. Rowe thought that Motley's post sentencing efforts were for the purpose of obtaining a new trial.

6. Motley filed a motion to withdraw the guilty pleas or, in the alternative, for reconsideration of the sentence. Upon denial he appealed the denial to the Court of Appeals.

7. The Court of Appeals denied the petition for appeal noting, inter alia, that the sentencing guidelines calling for a maximum of thirteen years two months could not be applied to Rowe because of the mandatory sentences for the firearms charges alone totalling thirteen years.

8. Motley failed to inform either Rowe or his parents of the denial of the petition of appeal by the Court of Appeals in time to allow them to decide whether to appeal further.

II. NATURE OF MISCONDUCT

The following Disciplinary Rules are deemed to have been violated:

DR 6-101. Competence and Promptness.

- (C) A lawyer shall keep a client reasonably informed about matters in which the lawyer's services are being rendered.

III. DISMISSAL WITH TERMS

Accordingly, it is the decision of the subcommittee to offer the Respondent an opportunity to comply with certain terms and conditions, compliance with which will be a predicate for dismissal of this complaint. The terms and conditions shall be met by April 1, 1997:

Respondent shall attend and complete the next scheduled Annual Criminal Law Seminar, without receiving any credit toward mandatory continuing legal education requirements, and provide evidence of proof to bar counsel.

Upon satisfactory proof that such terms and conditions have been met, this matter shall be dismissed. If, however, the terms and conditions are not met by April 1, 1997, this subcommittee shall set the case for a hearing before the Third District

Committee, Section Two.

THIRD DISTRICT, SECTION TWO, SUBCOMMITTEE
OF THE VIRGINIA STATE BAR

By



John S. Barr, Chair

CERTIFICATE OF SERVICE

I certify that I have this 15th day of November,
1996, mailed by CERTIFIED MAIL, RETURN RECEIPT REQUESTED, a true
and correct copy of the Subcommittee Determination (Dismissal with
Terms) to Victor Alan Motley, the Respondent, at P.O. Box 25786,
Richmond, VA 23260-5786, his last address of record with the
Virginia State Bar.



John S. Barr, Chair

VICTOR A. MOTLEY, LTD.
ATTORNEY AND COUNSELOR AT LAW
2817 NORTH AVENUE
RICHMOND, VIRGINIA 23222

P.O. BOX 25786
RICHMOND, VA. 23260

TEL: (804) 329-6972
FAX: (804) 329-1703

November 18, 1996

Virginia State Bar
c/o John S. Barr
Maloney, Barr & Huennekens
1111 East Main St., Suite 800
Richmond, VA 23219-3103

RE: In the Matter of Victor Alan Motley
VSB Docket No.: 96-032-2545

Dear Mr. Barr:

I, Victor A. Motley, am in receipt of your findings with respect to the above referenced.

However, for the record, I disagree with the following findings of fact:

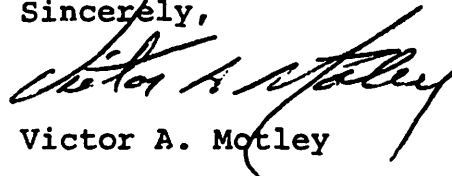
1. With respect to paragraph #4 of the Findings of Fact, I advised Rowe and his parents that the sentencing guidelines were discretionary. I gave no expectation of the judge following the guidelines.

The judge informed Rowe of the maximum sentence for each charge before accepting the guilty pleas.

2. The Rowe's clearly knew and even the judge informed the Rowe's that a guilty plea could not be appealed before accepting the guilty pleas. That's why the appeal addresses the issues it raises. A new trial could only be obtained by a withdrawal of the guilty plea.

3. As to paragraph #8, the Rowe's were informed of the denial of the appeal. The attached phone records evidence phone conversations subsequent to the denial of the appeal and before the expiration of the time to appeal to the Supreme Court. Even the investigating officer advised me that defendant Rowe told him that he was aware of the denial of the appeal. Defendant Rowe's mother claim that she did not know of the denial of the appeal. Who is my client?

Sincerely,



Victor A. Motley

VAM/scg
Enclosures

VIRGINIA:

*In the Supreme Court of Virginia held at the Supreme Court Building in the
City of Richmond on* Thursday the 6th day of March, 1997.

Brian Lee Rowe, Appellant,
against
Commonwealth of Virginia, Appellee.

From the Court of Appeals of Virginia

Upon consideration of the motion of the Commonwealth, by the Attorney General of Virginia, leave hereby is granted Brian Lee Rowe to file a notice of appeal and to apply for an appeal to this Court from the judgment rendered against him by the Court of Appeals on April 15, 1996, with all computations of time as required by the rules of this Court and applicable statutes to commence on the date of entry of this order or, if the said Brian Lee Rowe be entitled to appointed counsel upon this appeal, from the date of entry of the order of the Circuit Court of the City of Richmond appointing counsel, whichever date shall be later.

This order shall be certified to the Court of Appeals of Virginia and to the Circuit Court of the City of Richmond.

A Copy,

Teste:


Clerk

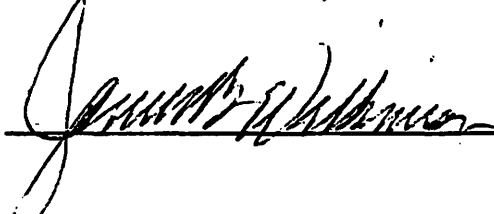
Virginia:

In the Circuit Court of the City of Richmond, Manchester Courthouse
the 17th day of March, 19 97.

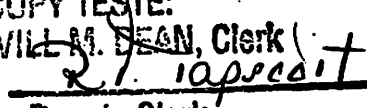
Commonwealth of Virginia, plaintiff,) Order -
against Case NO. 95-257-F
Brian Lee Rowe, defendant,)

It being represented to the Court that on March 6, 1997,
the Supreme Court of Virginia, granted the above defendant leave to
file a notice of appeal to said Court from the judgment rendered
by the Court of Appeals of Virginia on April 15, 1996, it is
Ordered that Victor Motley, Attorney at law, be and he hereby is
appointed to represent the defendant herein.

Enter this Order,

 Judge

cc: Victor Motley, Esq.

A COPY TESTE:
BEVILL M. DEAN, Clerk
By: 
Deputy Clerk

V I R G I N I A :

IN THE CIRCUIT COURT OF THE CITY OF RICHMOND
MANCHESTER COURTHOUSE

COMMONWEALTH OF VIRGINIA)

Plaintiff)

v.)

Case No.: 95-257-F

BRIAN LEE ROWE,)

Defendant.)

MOTION TO WITHDRAW AS COUNSEL

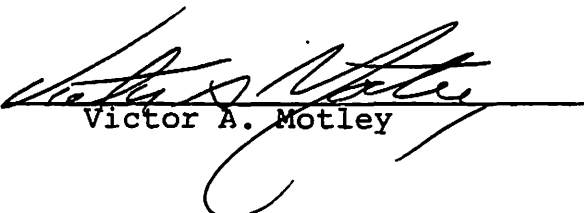
The law firm of Victor A. Motley, Ltd. by Victor A. Motley moves for permission to withdraw as counsel for defendant, Brian Lee Rowe in the above styled action, and for the grounds of this motion says as follows:

There exist a conflict of interest.

WHEREFORE the law firm of Victor A. Motley, Ltd. prays that it be permitted to withdraw as counsel for defendant, Brian Lee Rowe herein.

VICTOR A. MOTLEY, LTD.

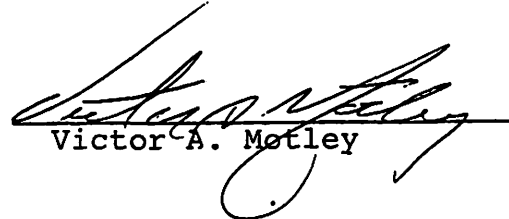
By:


Victor A. Motley

VICTOR A. MOTLEY, LTD.
2817 North Avenue
Richmond, VA 23222
(804) 329-6972

CERTIFICATE

I certify that I mailed, postage prepaid a copy of the foregoing Motion To Withdraw As Counsel to the Commonwealth Attorney's Office, 800 East Marshall Street, Richmond, Virginia, 23219 this 27th day of March, 1997.


Victor A. Motley

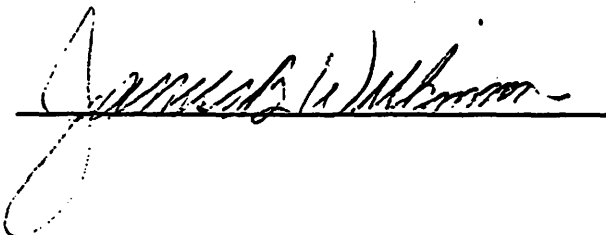
Virginia:

In the Circuit Court of the City of Richmond, Manchester Courthouse
the 7th day of April, 19 97.

Commonwealth of Virginia, plaintiff,) Order -
against 95-257-F
Brian Lee Rowe, defendant,)

The Court having on March 17, 1997, appointed Victor Motley, Attorney at law, to represent the defendant should he appeal the judgment of the Court of Appeals of Virginia of April 15, 1996, to the Supreme Court, and it being represented by Victor Motley he has a conflict, it is Ordered that Victor Motley, Attorney at law, be relieved as counsel for the defendant, and that Kevin Schork, Attorney at law, be appointed to represent the defendant herein.

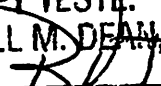
Enter this Order,

 Judge

cc: Victor Motley, Esq.

Kevin Schork, Esq. w/Supreme Court Order of 3/6/97

Defendant

A COPY TESTE:
BEVILL M. DEAN, Clerk
By: 
Deputy Clerk



Virginia State Bar

3rd

DISTRICT COMMITTEE

PLEASE REPLY TO

March 26, 1997

PERSONAL AND CONFIDENTIAL

RECEIVED

MAR 27 1997

VIRGINIA STATE BAR

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
P257 227 338

Victor Alan Motley, Esq.
P.O. Box 25786
Richmond, VA 23260-5786

Re: In the Matter of Victor Alan Motley
VSB Docket #96-032-2545

Dear Mr. Motley:

Enclosed herein is a District Committee Determination (Private Reprimand) which is being served upon you by the Third District, Section Two, Committee of the Virginia State Bar.

Pursuant to Part 6, § IV, ¶ 13(B)(10) of the Rules of the Supreme Court, you may demand that the matter be appealed to the Disciplinary Board or that further proceedings be conducted pursuant to Article 6 of Chapter 39 of Title 54.1 of the Code of Virginia. To do so, you must file such notice with, and be received by, the Clerk of the Disciplinary System within ten days of the date of the Certificate of Service of the District Committee Determination. The address for the Office of the Clerk of the Disciplinary System is Virginia State Bar, Eighth and Main Building, 707 East Main Street, Suite 1500, Richmond, Virginia 23219-2803. At the same time, you must also mail a copy to me at the above address and to Bar Counsel, Virginia State Bar, Eighth and Main Building, 707 East Main Street, Suite 1500, Richmond, Virginia 23219-2803. Please be advised that the Clerk's Office will not accept filings by facsimile transmission.

You must certify in the notice of appeal that you have ordered the transcript of the proceeding before the district committee at your own cost from the court reporter. The transcript is a part of the record when it is received by the Office of the Clerk of the Disciplinary System within 40 days after filing the notice of

appeal. Except as provided in Part 6, § IV, ¶ 13(D)(1), failure to make the transcript a part of the record shall result in dismissal of the appeal and affirmance of the sanction imposed by the district committee. You may order the transcript from Chandler & Halasz, Court Reporters, P.O. Box 9349, Richmond, VA 23227, telephone number 800-427-8763.


If you file an appeal with the Disciplinary Board, the record will be forwarded to the Clerk of the Disciplinary System as provided in Part 6, § IV, ¶ 13(B)(10) of the Rules of the Supreme Court et seq.

If no appeal is received by me within ten days of the Certificate of Service, this matter will be closed.

Costs will be assessed by the Clerk of the Disciplinary System pursuant to Part 6, § IV, ¶ 13(K)(10) of the Rules of the Supreme Court.

Please be aware that this disposition will remain a part of your disciplinary record.

Sincerely,



Robert L. Freed
Vice Chair

Enclosure

cc: Harry M. Hirsch, Esq., Bar Counsel, w/encl.
Carol D. Woodward, Esq., Committee Secretary, w/encl.
Lacy Campbell, Bar Investigator, w/encl.
Clerk of the Disciplinary System, w/encl. ✓

VIRGINIA:

BEFORE THE THIRD DISTRICT COMMITTEE, SECTION TWO
OF THE
VIRGINIA STATE BAR

IN THE MATTER OF
VICTOR ALAN MOTLEY

VS. DOCKET NO. 96-032-2545

DISTRICT COMMITTEE DETERMINATION
(PRIVATE REPRIMAND WITH TERMS)

On March 14, 1997, a hearing in this matter was held before a duly convened Third District Committee, Section Two, consisting initially of Vaughan Palmore, a former Sixth District Committee lay member; John A. Gibney, Jr., Esq.; George H. Martin, Jr., Esq.; Ann A. Webster, Esq.; Carol D. Woodward, Esq.; and Robert L. Freed, Esq., Vice Chair, presiding.

The Respondent, Victor Alan Motley, appeared pro se. Deputy Bar Counsel Harry M. Hirsch appeared for the Virginia State Bar.

During the course of the hearing Mr. Martin, and subsequently Mr. Palmore, had to leave the proceedings. Upon the leaving of Mr. Palmore the hearing proceeded to conclusion with the specific consent of the Respondent to the remaining district committee panel consisting of four members, Mr. Gibney, Ms. Webster, Ms. Woodward, and Mr. Freed, presiding.

Pursuant to Part 6, Section IV, Paragraph 13(B)(7)(b) of the Rules of the Supreme Court, the Third District Committee, Section Two of the Virginia State Bar hereby serves upon the Respondent the following Private Reprimand with Terms:

I. FINDINGS OF FACT:

1. At all times relevant hereto the Respondent, Victor Alan Motley [Motley], has been an attorney licensed to practice law in the Commonwealth of Virginia.

2. Motley was retained by Brian Rowe [Rowe], an adult, to represent him with respect to the following charges pending against him as a result of a robbery and murders which occurred at the Happy Mart convenience store in 1995 in Richmond: two counts of first degree murder, one count of robbery, and three counts of use of a firearm. The retainer fee was One Thousand Dollars (\$1,000.00). Motley was retained for the purpose of pleading Rowe guilty to the lowest possible charges.

3. As a result of contact by Motley with the prosecutor, Rowe was able

to, and did, plead guilty to two counts of second degree murder, one count of robbery, and three counts of use of a firearm.

4. There was no clear and convincing evidence that prior to the entry of any pleas, Motley had failed to inform Rowe and Rowe's parents that Rowe might not be sentenced according to the sentencing guidelines and to a term of about thirteen years which apparently was the sentence expected by Rowe and his parents. Motley argued unsuccessfully the application of the sentencing guidelines to Rowe's charges. Rowe was sentenced to Ninety-Three (93) years in the penitentiary.

5. After sentencing, Rowe's parents asked Motley what could be done and Motley agreed to appeal the case for an additional fee of Two Thousand Dollars (\$2,000.00). Rowe's parents, who had paid Motley's fee and met with him about the case, were apparently not aware that a guilty plea negated the right to appeal. Rowe claimed to have thought that Motley's post sentencing efforts were for the purpose of obtaining a new trial.

6. Motley timely filed a motion to withdraw the guilty pleas or, in the alternative, for reconsideration of the sentence. Upon denial, he timely appealed the denial to the Court of Appeals.

7. The Court of Appeals denied the petition for appeal noting, inter alia, that the sentencing guidelines calling for a maximum of thirteen years two months could not be applied to Rowe because of the mandatory sentences for the firearms charges alone totalling thirteen years.

8. Motley failed to timely inform either Rowe or his parents of the denial of the petition of appeal by the Court of Appeals in time to allow them to decide whether to appeal further to the Virginia Supreme Court.

II. NATURE OF MISCONDUCT:

Such conduct on the part of the Respondent constitutes misconduct in violation of the following Disciplinary Rules of the Virginia Code of Professional Responsibility:

DR 6-101. Competence and Promptness.

- (C) A lawyer shall keep a client reasonably informed about matters in which the lawyer's services are being rendered.

III. PRIVATE REPRIMAND WITH TERMS:

Accordingly, it is the decision of the Third District Committee, Section Two to offer the Respondent an opportunity to comply with certain terms and conditions, compliance with which will be a predicate for the disposition of a Private Reprimand With Terms of this complaint. The terms and conditions shall be met by March 14, 1998, except as set out below:

1. Respondent shall immediately begin to timely mail a copy of each court order to his clients with an appropriate cover letter.
2. Respondent shall promptly develop a written office policy which

requires that each court order be timely mailed to his clients with an appropriate cover letter. Said written office policy shall be signed by each employee of Respondent's office.

~~3.~~ Respondent shall promptly draft and begin using an engagement letter or agreement for use in each case in which the Respondent is retained. Said engagement letter or agreement shall include the scope of the representation and the manner in which fees and costs are to be paid in each case.

4. Respondent shall promptly certify that he has read the pamphlet from the American Bar Association concerning docket control which he was given after the hearing in this matter and Respondent shall promptly return the pamphlet to Deputy Bar Counsel Hirsch.

~~5.~~ Respondent shall certify to Deputy Bar Counsel Hirsch on a quarterly basis his compliance with the above terms.

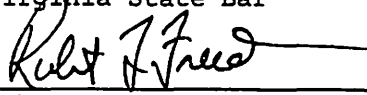
6. In addition to his mandatory continuing legal education requirements, Respondent shall take and complete at least six hours of continuing legal education on the topic of criminal procedure. In the event a suitable continuing legal education program is not available prior to March 14, 1998, Deputy Bar Counsel Hirsch is authorized to extend the March 14, 1998 deadline for a reasonable time to allow satisfactory completion of this term. All terms set out herein as Terms 1, 2, ~~3~~, and ~~5~~ shall continue during such extended period.

~~7.~~ The Virginia State Bar shall be authorized to enter Respondent's office upon reasonable notice to verify compliance with these terms.

Upon satisfactory proof that such terms and conditions have been met, this matter shall be closed. If, however, the terms and conditions are not met by the later of March 14, 1998 or the extended deadline pursuant to Term 6 above, the District Committee shall impose a Public Reprimand.

Third District Committee, Section Two
Of The Virginia State Bar

By


Robert L. Freed
Vice Chair

CERTIFICATE OF SERVICE

I certify that I have this 26th day of March, 1997, mailed by CERTIFIED MAIL, RETURN RECEIPT REQUESTED, a true and correct copy of the District Committee Determination (Private Reprimand with Terms) to Victor Alan Motley, Respondent, at P.O. Box 25786, Richmond, VA 23260-5786 his last address of record with the Virginia State Bar.



Robert L. Freed
Vice Chair

APR -7 1997

VSb CLERK'S OFFICE

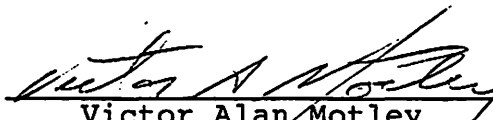
VIRGINIA STATE BAR
c/o Clerk-Disciplinary System *Byrd*
707 E. Main St., Suite 1500
Richmond, VA 23219

RE: IN THE MATTER OF
VICTOR ALAN MOTLEY
VSB Docket #96-032-2545

NOTICE OF APPEAL

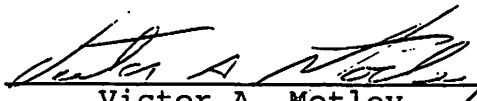
The respondent, Victor Alan Motley, hereby gives notice of appeal to the Disciplinary Board from the District Committee Determination entered on March 26, 1997, and further gives notice that the transcript covering the testimony and other incidents of the hearing have been ordered and will be filed.

I hereby certify that the transcript of the proceedings before the District Committee has been ordered.


Victor Alan Motley

CERTIFICATE

I hereby certify that a true copy of this Notice was mailed to Robert L. Freed and Bar Counsel the 7th day of April, 1997.


Victor A. Motley

VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

IN THE MATTER OF
VICTOR ALAN MOTLEY

VSb DOCKET NO. 96-032-2545

ORDER

This matter came before the Board for hearing on October 17, 1997, in connection with Respondent's appeal of the decision of the Third District Committee, Section Two, to impose a private reprimand with terms or, should Respondent not comply with the terms, a public reprimand. A hearing was held before a duly convened panel of the Virginia State Bar Disciplinary Board consisting of John A. Dezio, Dennis P. Gallagher (lay member), William M. Moffet, Anthony J. Trenga and Virginia W. Powell, Vice Chair, presiding.

The Respondent, Victor Alan Motley, appeared in person and proceeded pro se. Deputy Bar Counsel Harry M. Hirsch appeared as counsel for the Virginia State Bar.

I. THE DISTRICT COMMITTEE'S FINDINGS OF FACT:

The District Committee made the following findings of fact:

1. At all times relevant hereto the Respondent, Victor Alan Motley [Motley], has been an attorney licensed to practice law in the Commonwealth of Virginia.
2. Motley was retained by Brian Rowe [Rowe], an adult, to represent him with respect to the following charges pending against him as a result of a robbery and murders which occurred at the Happy Mart convenience store in 1995 in Richmond: two counts of first degree murder, one count of robbery, and three counts of use of a firearm. The retainer fee was One Thousand Dollars (\$1,000.00). Motley was retained for the purpose of pleading Rowe guilty to the lowest possible charges.

3. As a result of contact by Motley with the prosecutor, Rowe was able to, and did, plead guilty of two counts of second degree murder, one count of robbery, and three counts of use of a firearm.

4. There was no clear convincing evidence that prior to the entry of any pleas, Motley had failed to inform Rowe and Rowe's parents that Rowe might not be sentenced according to the sentencing guidelines and to a term of about thirteen years which apparently was the sentence expected by Rowe and his parents. Motley argued unsuccessfully the application of the sentencing guidelines to Rowe's charges. Rowe was sentenced to Ninety-Three (93) years in the penitentiary.

5. After sentencing, Rowe's parents asked Motley what could be done and Motley agreed to appeal the case for an additional fee of Two Thousand Dollars (\$2,000.00). Rowe's parents, who had paid Motley's fee and met with him about the case, were apparently not aware that a guilty plea negated the right to appeal. Rowe claimed to have thought that Motley's post sentencing efforts were for the purpose of obtaining a new trial.

6. Motley timely filed a motion to withdraw the guilty pleas or, in the alternative, for reconsideration of the sentence. Upon denial, he timely appealed the denial to the Court of Appeals.

7. The Court of Appeals denied the petition for appeal noting, inter alia, that the sentencing guidelines calling for a maximum of thirteen years two months could not be applied to Rowe because of the mandatory sentences for the firearms charges alone totaling thirteen years.

8. Motley failed to timely inform either Rowe or his parents of the denial of the petition of appeal, by the Court of Appeals in time to allow them to decide whether to appeal further to the Virginia Supreme Court.

II. NATURE OF MISCONDUCT:

Based on the above findings of fact, the District Committee found that the Respondent engaged in misconduct in violation of DR-6-101C of the Virginia Code of Professional Responsibility (competence and promptness) which provides that "[a] lawyer shall keep a client reasonably informed about matters in which the lawyer's services are being rendered."

III. THE SANCTION OF THE THIRD DISTRICT COMMITTEE:

Based on its findings of fact, the Third District Committee offered the Respondent an opportunity to comply with the following terms and conditions in connection with a private reprimand in lieu of a public reprimand.

1. Respondent shall immediately begin to timely mail a copy of each court order to his clients with an appropriate cover letter.
2. Respondent shall promptly develop a written office policy which requires that each court order be timely mailed to his clients with an appropriate cover letter. Said written office policy shall be signed by each employee of Respondent's office.
3. Respondent shall promptly draft and begin using an engagement letter or agreement for use in each case in which the Respondent is retained. Said engagement letter or agreement shall include the scope of the representation and the manner in which fees and costs are to be paid in each case.
4. Respondent shall promptly certify that he has read the pamphlet from the American Bar Association concerning docket control which he was given after the hearing in this matter and Respondent shall promptly return the pamphlet to Deputy Bar Counsel Hirsch.
5. Respondent shall certify to Deputy Bar Counsel Hirsch on a quarterly basis his compliance with the above terms.
6. In addition to his mandatory continuing legal education requirements, Respondent shall take and complete at least six hours of continuing legal education on the topic of criminal procedure. In the event a suitable continuing legal education program is not available prior to March 14, 1998, Deputy Bar Counsel Hirsch is authorized to extend the March 14, 1998 deadline

for a reasonable time to allow satisfactory completion of this term. All terms set out herein as Terms 1, 2, 3 and 5 shall continue during such extended period.

7. The Virginia State Bar shall be authorized to enter Respondent's office upon reasonable notice to verify compliance with these terms.

IV. THE DISCIPLINARY BOARD'S DECISION:

The Disciplinary Board is authorized, in an appeal from the District Committee, to dismiss or affirm the District Committee's decision under Virginia Supreme Court Rules, Part 6, Section IV, Paragraph 13D(4). In affirming a District Committee's decision, the Board may impose the same or lesser sanctions, but in no event shall it increase the severity of the sanctions imposed by the District Committee. Id. In reviewing the decision of the District Committee, the Disciplinary Board may not, however, substitute its own judgment for that of the District Committee, but shall determine only whether the District Committee's decision is contrary to law or is not supported by substantial evidence. Virginia Supreme Court Rules, Part 6, §IV, para. 13D(4)(a). Upon review of the District Committee record, the briefs filed herein and the argument of the Virginia State Bar and the Respondent, the Disciplinary Board finds that the District Committee's findings are not contrary to law and are supported by substantial evidence. The Board, however, exercises its discretion to modify the sanctions imposed by the District Committee by eliminating the terms set forth in paragraphs 3, 5 and 7 of Section III of its Determination and the reference to paragraphs 3 and 5 in paragraph 6. Accordingly, the Board affirms the District Committee' decision, but imposes as a sanction an opportunity to comply with the following terms and conditions as part of a private reprimand, in lieu of a public reprimand:

1. Respondent shall immediately begin to timely mail a copy of each court order to his clients with an appropriate cover letter.

2. Respondent shall promptly develop a written office policy which requires that each court order be timely mailed to his clients with an appropriate cover letter. Said written office policy shall be signed by each employee of Respondent's office.

3. Respondent shall promptly certify that he has read the pamphlet from the American Bar Association concerning docket control which he was given after the hearing in this matter and Respondent shall promptly return the pamphlet to Deputy Bar Counsel Hirsch.

4. In addition to his mandatory continuing legal education requirements, Respondent shall take and complete at least six hours of continuing legal education on the topic of criminal procedure. In the event a suitable continuing legal education program is not available prior to March 14, 1998, Deputy Bar Counsel Hirsch is authorized to extend the March 14, 1998 deadline for a reasonable time to allow satisfactory completion of this term. All terms set out herein as Terms 1 and 2 shall continue during such extended period.

Upon satisfactory proof that such terms and conditions have been met, this matter shall be closed. If, however, the terms and conditions are not met by the later of March 14, 1998 or the extended deadline pursuant to Term 4 above, a public reprimand shall be imposed. Respondent may establish compliance with these terms by notifying Bar Counsel by letter that he has completed and satisfied the terms set forth herein.

The court reporter reporting this matter was Donna T. Chandler with Chandler & Halasz, P.O. Box 9349, Richmond, VA 23227 (804-730-1222).

Pursuant to Part Six, Section IV, Paragraph 13(K)(10) of the Rules of the Supreme Court, the Clerk of the Disciplinary System shall assess costs.

IT IS FURTHER ORDERED, that an attested copy of the Order be mailed by
CERTIFIED MAIL, RETURN RECEIPT REQUESTED to Respondent Victor Alan Motley,
Esquire, P.O. Box 25786, Richmond, VA 23260-5786 and hand-delivered to Harry M. Hirsch,
Deputy Bar Counsel.

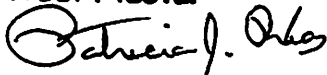
ENTERED THIS 24 day of March 1998.

VIRGINIA STATE BAR DISCIPLINARY BOARD

By Virginia W. Powell
Virginia W. Powell
Vice Chair

f:\Ttenga\Virginia State Bar\Motley Order

A COPY TESTE:



PATRICIA J. RIOS

CLERK OF THE DISCIPLINARY SYSTEM



Virginia State Bar

Eighth and Main Building
707 East Main Street, Suite 1500
Richmond, Virginia 23219-2800
Telephone: (804) 775-0500

Facsimile: (804) 775-0501 TDD: (804) 775-0502

PERSONAL AND CONFIDENTIAL

May 7, 1999

Ms. Patricia J. Rios
Clerk of the Disciplinary System
Virginia State Bar
Suite 1500
707 East Main Street
Richmond, VA 23219

Re: In the Matter of Victor Alan Motley
VSB Docket No. 96-032-2545

Dear Ms. Rios:

Enclosed for filing please find a Notice Of Show Cause Proceeding with exhibits for a hearing before the Disciplinary Board on Friday, June 25, 1999, at 9:00 a.m., in Courtroom B of the State Corporation Commission, Tyler Building, 1300 East Main Street, Richmond, VA 23219.

Please place this matter on the docket.

By copy of this letter I am forwarding a copy of the Notice Of Show Cause Proceeding and exhibits to Mr. Motley at his last address of record with the bar.

Very truly yours,

A handwritten signature in black ink, appearing to read "Harry M. Hirsch".

Harry M. Hirsch
Deputy Bar Counsel

Enclosures

cc: Victor Alan Motley, Esq., Respondent, w/encls.

Certified Mail Return Receipt Requested

No. Z 271 014 846

VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

IN THE MATTER OF

VICTOR ALAN MOTLEY

VSB DOCKET NO. 96-032-2545

NOTICE OF SHOW CAUSE PROCEEDING

TAKE NOTICE that on FRIDAY, JUNE 25, 1999, at 9:00 A.M. in COURTROOM B, STATE CORPORATION COMMISSION, TYLER BUILDING, 1300 EAST MAIN STREET, RICHMOND, VA 23219, THE VIRGINIA STATE BAR, by counsel, SHALL SEEK THE IMPOSITION OF THE ALTERNATIVE SANCTION OF PUBLIC REPRIMAND UPON A FAILURE TO FULFILL TERMS herein UNLESS VICTOR ALAN MOTLEY IS ABLE TO SHOW CAUSE WHY THE ALTERNATIVE SANCTION SHOULD NOT BE IMPOSED, and the bar states the following:

1. On March 24, 1998, the Disciplinary Board entered its order affirming the Private Reprimand With Terms imposed by the Third District Committee, Section Two, upon the Respondent, Victor Alan Motley [Motley], but altering the terms imposed.

2. The order imposed a deadline of March 14, 1998 for completion except to the extent that the requirements of Term 4 therein could not be met timely; undersigned counsel was authorized to extend the completion time with respect to said term.

3. The order was served upon Motley by the Clerk of the Disciplinary System by cover letter dated March 26, 1998 [Exhibit A with order]. Correspondence dated March 31, 1998, May 28, 1998 and August 24, 1998 was sent to Motley by undersigned counsel in an attempt to

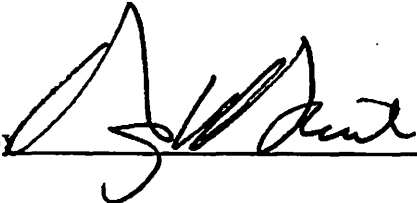
facilitate the completion of the terms by Motley. [Exhibits B, C and D].

4. By letter dated February 4, 1999 to Motley, undersigned counsel established April 15, 1999 as a deadline for completion of the terms herein and enclosed copies of the correspondence previously sent to Motley.

5. In accordance with the order, satisfaction of the terms imposed could be established by Motley by his appropriate written certification to undersigned counsel.

6. Motley has failed to fulfill the terms imposed by the order.

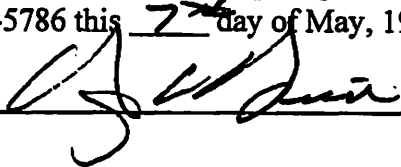
VIRGINIA STATE BAR

By  _____

Harry M. Hirsch
Deputy Bar Counsel
Virginia State Bar
Suite 1500
707 East Main Street
Richmond, VA 23219
804-775-0560

Certificate of Service

A true copy of the foregoing was mailed certified mail return receipt requested to Victor Alan Motley, P.O. Box 25786, Richmond, VA 23260-5786 this 7th day of May, 1999.

 _____

VIRGINIA:

IN THE SUPREME COURT

IN THE MATTER OF
VICTOR ALAN MOTLEY

VSB Docket No.: 96-032-2545

**AMENDED
NOTICE OF APPEAL**

Respondent, Victor Alan Motley, hereby gives notice of appeal to the Virginia Supreme Court from the Virginia State Bar Disciplinary Board Order entered September 29, 1999.

Pursuant to Part 6 of the Rules of the Supreme Court of Virginia makes the following:

ASSIGNMENTS OF ERROR

I.

WHETHER DR 6-101 IS VOID FOR VAGUENESS WHEN THE TERM IS "REASONABLY INFORMED" IS NOT DEFINED?

II.

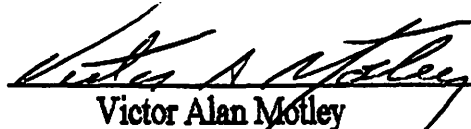
WHETHER THE DETERMINATION FOR THE THIRD DISTRICT COMMITTEE IS CONTRARY TO THE LAW AND THE EVIDENCE WHEN SAID EVIDENCE IS NOT CREDIBLE AND WHEN COMPLAINANT'S MOTHER ONLY KNOWS WHAT COMPLAINT TOLD HER; COMPLAINANT ACKNOWLEDGED THAT HE TALKED TO PETITIONER DURING THE PERIOD IN QUESTION BUT CANNOT REMEMBER THE DETAILS OF THE CONVERSATION; WHEN RESPONDENT DID PRODUCE PHONE RECORDS WITH CALLS FROM THE FACILITY WHERE CLAIMANT WAS HOUSED DURING THE PERIOD IN QUESTION; WHEN THE INVESTIGATOR'S NOTES DO NOT SUPPORT HIS WRITTEN REPORT; AND WHEN THE INVESTIGATOR'S WRITTEN REPORT IS NOT SUPPORTED BY THE EVIDENCE?

III.

WHETHER THE VIRGINIA STATE BAR ERRED IN INTRODUCING VSB DOCKET NO.: 86-146 WHICH DID NOT WARRANT EITHER A PRIVATE REPRIMAND OR CERTIFICATION TO THE VIRGINIA STATE BAR DISCIPLINARY BOARD AND CONTAINS NO FACTS AS PRESCRIBED BY THE RULES OF VIRGINIA SUPREME COURT, PT.6, SECTION IV, PARAGRAPH 13(B) (6) (c)?

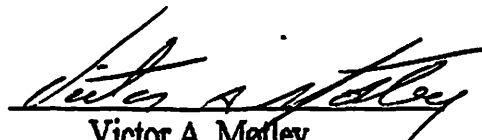
IV.

WHETHER THE VIRGINIA STATE BAR'S FINDINGS OF FACT IN VSB DOCKET NO.: 91-031-0795, FINDINGS OF FACT #4 IS TRUE WHEN NO ACCOUNTING WAS DUE FROM VICTOR A. MOTLEY AS EVIDENCED BY THE FIRST AND FINAL ACCOUNTING?


Victor Alan Motley

CERTIFICATE

I certify that I mailed, postage prepaid a copy of the foregoing Notice of Appeal to the Attorney General's Office, 900 E. Main Street, Richmond, Virginia, 23219 and the Virginia State Bar, 707 E. Main Street, Richmond, Virginia 23219 this 25th day of October 1999.


Victor A. Motley

RECEIVED OF *Revenue Bureau*
BY *Victor A. Matley / pay*
DOLLARS *Two Hundred and 00/100*
19 *20* No. *2120*

RECEIVED OF *ST. PETERS*
BY *John A. Matley*
DOLLARS *Two Hundred and 00/100*
19 *20* No. *2120*

RECEIVED OF *Revenue Bureau*
BY *Victor A. Matley / pay*
DOLLARS *Two Hundred and 00/100*
19 *20* No. *2120*

RECEIVED OF *Revenue Bureau*
BY *Victor A. Matley / pay*
DOLLARS *Two Hundred and 00/100*
19 *20* No. *2120*

5/6 1996 No.

RECEIVED OF

Joseph Bentley

One Hundred and 00/100

DOLLARS

Sal. \$500

BY Victor A. Motley /ag

5/6 1996 No.

RECEIVED OF

Angela Blackwell

One Hundred and 00/100

DOLLARS

Separation Agreement

BY Victor A. Motley /ag

5/10 1996 No.

RECEIVED OF

Charotha Rowe

One Hundred and 00/100

DOLLARS

Brian Rowe

Balance 650.00

BY Victor A. Motley /ag


5/21 1996 No.

RECEIVED OF

Rossvelt Harrison

Twenty five and 00/100

DOLLARS

PHONE MESSAGE		DATE <u>4/5/76</u>	TIME	AM P.M.
FOR	<u>U/M</u>			
M	<u>Ms. Lowe</u>			
OF				
PHONE ()	<u>232-1417</u>	EXT.		
<input type="checkbox"/> FAX	<input type="checkbox"/> MOBILE	<input type="checkbox"/> PAGER ()		
MESSAGE				
<u>On April 15th she will</u>				
<u>pay \$350 - \$400 & the balance</u>				
<u>the following month</u>				
			SIGNED <u>PCY</u>	

- ☐ URGENT
- ☐ PHONED
- ☐ RETURNED YOUR CALL
- ☐ PLEASE CALL BACK
- ☐ WILL CALL AGAIN
- ☐ WAS IN
- ☐ WANTS TO SEE YOU

Apr 11 1996

Acct 804 329 6972 000 05

Amount	Place	Telecom*USA Number	Date	Time	Rate	Min
Telecom*USA						
\$ 2.75	FR SOUTH H VA	804 447-2080	Mar 4	4:47P	*D	3
2.75	FR SOUTH H VA	804 447-2085	11	4:40P	*D	3
2.75	FR SOUTH H VA	804 447-2080	13	4:33P	*D	3
3.08	FR SOUTH H VA	804 447-6146	15	4:20P	*D	4

\$ 11.33 Subtotal Telecom*USA Calls
 .18 State and Local Surcharge
 .35 Federal Tax

\$ 11.86 Total Telecom*USA

Questions call

954-6888

RATE KEY: * = Dialed
 D = Day rate

Page 12

May 11 1996

Acct 804 329 6972 000 05

Amount	Place	Telecom*USA Number	Date	Time	Rate	Min
Telecom*USA						
\$ 3.08	FR SOUTH H VA	804 447-2085	Apr 22	4:35P	*S	4
\$ 3.08 Subtotal Telecom*USA Calls .05 State and Local Surcharge .09 Federal Tax						

\$ 3.22 Total Telecom*USA

Questions call

954-6888

RATE KEY: * = Dialed
 S = Station to Station

Page 11



A very different long distance phone company.

Acct 804 329 6972 000 05

Jun 11 1996

LCI International

\$ 3.22 Total LCI International

Billing Questions 1 800 860-2255

RATE KEY: * = Dialed
D = Day rate

This portion of your bill is provided as a service to LCI International.
Toll charges are computed based on the rate schedule of LCI International.

Page 15

Acct 804 329 6972 000 05 Jun 11 1996

Amount	Place	Telecom*USA Charges Number	Date	Time	Rate	Min
\$ 2.10	Telecom*USA FR LAWRENC	YA 804 848-0413	Apr 30	10:35A	*S	2
\$ 2.10	Subtotal Telecom*USA Calls					
	.03 State and Local Surcharge					
	.06 Federal Tax					

\$ 2.19 Total Telecom*USA

Questions call

954-6888

RATE KEY: * = Dialed
S = Station to Station

Page 16

Acct 804 329 6972 000 05 Jul 11 1996

Amount	Place	Telecom*USA Charges	Number	Date	Time	Rate	Min
Telecom*USA							
\$ 1.88	FR LAWRENC	VA	804 848-0413	Jun 4	5:03P	*S	2
2.31	FR LAWRENC	VA	804 848-0413	13	3:08P	*S	3
1.89	FR LAWRENC	VA	804 848-0413	19	3:01P	*S	1
2.10	FR LAWRENC	VA	804 848-0413	20	4:26P	*S	2
\$ 8.18	Subtotal Telecom*USA Calls						
- .13	State and Local Surcharge						
.25	Federal Tax						

\$ 8.56 Total Telecom*USA

Questions call

954-6888

RATE KEY: * = Dialed
S = Station to Station

Page 15

Acct 804 329 6972 000 05 Jul 11 1996

Telecom*USA

This portion of your bill is provided as a service for Telecom*USA. Telecom*USA is a billing agent for long distance providers. Toll charges are computed based upon the rate schedule of the long distance toll service provider whose name is printed above the call or group of calls in the toll detail section of this bill.

Page 16

Re: T. Forster
prior to

Had phone # of
Singer to call
her

appealing Denial

she called before Denial
said she was going to come
in make payment.

Received Denial sat on
Desk.

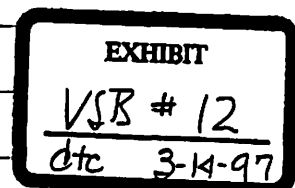
After Aulich mailed to
her. at above address.

10th Inuit Hott

Don't Recall whether or
not I talked with either
before May 15th

Don't Recall when I talked
to

After he talked to Mosher
he called & I told him
about appeal Denial



with I
Before trial He knew
He plead to everything
I talked to, about He
not plead to All

less punishable.

told All it w
I know I told King
Prosecution

He plead guilty to premeditation
Judge need compelling reason
to go out ~~the~~ guidelines

I told King & parents
Before trial He could
not appeal Guilty plea.

Talked mother outside.
Not appealing Guilty plea.
Argue on Discretion

BARRY ARGUED AT DEFENSE
show go outside guidelines
I ARGUED should not

~~Barry~~

Parents came here what
2 weeks for trial

Far as I know he was
going to plead to 1st Degree.
Main thing was 1st Degree.

No Fee Agreement
1000 TRY to get reduced
to 2nd.

To get it reduced to lowest
possible.

What you telling me 2nd
Degree. They agreed.

He had talked to someone
in jail going up down
I plead Guilty cheap.

I went in
He agreed

Det Agreed - CA Agreed
All knew he would
plead to

BARRY.

12A - Had 2 V. Effort
Arranged Trip & Sunday
Cabinets over

D.

Arise Description
or Take Back Guide
~~please~~ plan.

~~App.~~ Noted with down
under 1,000

~~at~~
when that would charged
2000

11-22	300
12-11	150
1-15	300
2-7	250
3-5	250
6-10	100

MEMORANDUM OF INTERVIEW

RE: Rowe v. Motley
VSB Docket #96-032-2545

PERSON(S)
PRESENT: Victor Alan Motley, Esquire - Respondent
Lacy O. Campbell - VSB Investigator

LOCATION: 2817 North Avenue
Richmond, Virginia 23222
(804) 329-6972

DATE: September 23, 1996

On September 20, 1996, Mr. Victor Alan Motley, Esquire was interviewed at his office.

Mr. Motley advised that the parents of Brian Rowe came to see him approximately two weeks prior to the trial of Brian. He advised that they informed him that Brian was going to plead to first degree murder. He stated after listening to Mr. and Mrs. Rowe's account of what occurred, he informed them that Brian was not guilty of first degree murder but at the most, was guilty of second degree murder.

He advised that he took the case with Mr. and Mrs. Rowe and advised them he would charge \$1,000 to try to get the charge reduced to second degree murder. He stated the main charge was the first degree murder charge and that is what they were concerned with at that time. He advised that he was retained to get the charge reduced to the lowest possible charge. He stated that they agreed to pay him \$1,000 to represent Brian and to get the charge reduced as low as possible.

Mr. Motley stated that Brian had talked to someone in the jail who had given Brian his name and that he would plead you guilty "cheap." He stated he does not believe in charging large sums to plead someone guilty. He stated he went to the jail to visit Brian and Brian agreed that he should be represented and he told Brian he would attempt to get his first degree murder charge reduced

to second degree murder.

Mr. Motley stated he then discussed the matter with Detective Woody of the Richmond Police Department and Commonwealth's Attorney Barry and they both agreed to the charges being reduced to second degree murder. Mr. Motley advised that when Brian was going to plead to the first degree murder charge the other firearms charges would be dropped; however, Mr. Barry did not agree to dropping any charges if Brian would plead guilty to second degree murder.

Mr. Motley stated that the matter was discussed with Brian before trial and Brian agreed to plead guilty to the second degree murder charge and agreed to plead guilty to all the other charges.

Mr. Motley was asked if the sentencing guidelines were ever discussed with Brian and he stated that he informed Brian that the sentencing guidelines were discretionary. Mr. Motley stated that he informed Brian that if he plead guilty to second degree murder then he would appear to be less culpable for the presentence report and hopefully, the judge would sentence under the guidelines. He stated he informed Brian that if he plead guilty and a presentence report was done the judge would need a compelling reason if he went out of the guidelines.

Mr. Motley stated that he informed Brian and his parents before the trial that Brian could not appeal a guilty plea.

According to Mr. Motley, after the judge sentenced Brian to 93 years he talked with Ms. Rowe outside of the courtroom and reminded her that they could not appeal the guilty plea. He stated he informed Ms. Rowe that they could possibly appeal the abuse of discretion or file a motion to take back the guilty plea. He stated that Ms. Rowe was in agreement that he would file a motion to withdraw the guilty plea. He stated he filed that motion with the court but the motion was denied. He stated the cost of filing the motion was covered under the \$1,000 he originally charged the family. He stated after that motion was denied he talked with Ms. Rowe and informed her he could appeal the motion to withdraw the guilty plea to the Court of Appeals but it would cost an

additional \$2,000. He stated she agreed to pay him \$2,000 to appeal the motion to withdraw decision.

He stated he informed Ms. Rowe that to appeal the motion to withdraw to the Court of Appeals would cost \$2,000 and she agreed. He stated his records reflect that on November 22nd he received \$300; December 11th, \$150; January 15th, \$300; February 7th, \$250; March 5th, \$250; and June 10th, \$100 from Ms. Rowe.

Mr. Motley advised that after he had appealed the motion to withdraw sentence he received several phone calls from Brian; however, there was nothing he could tell Brian because there was nothing going on. He stated he was not able to talk with Brian each time he called.

Mr. Motley advised that his office received a phone call from Ms. Rowe on April 5, 1996 advising that she would pay \$350 or \$400 on April 15th. He advised he knew she was coming to the office. He advised that the Court of Appeals' decision was rendered on April 15, 1996; however, he did not receive a copy of the decision for several days. He stated he was aware that the decision had been rendered by the Court of Appeals and he knew Ms. Rowe was coming to his office. He stated when he received the notification from the Court of Appeals he gave a copy to his receptionist to give to Ms. Rowe when she came to make a payment. He advised Ms. Rowe did not come to make a payment in April as she had promised and the decision laid on his receptionist's desk for several days. He stated that as Ms. Rowe did not appear he directed his receptionist to mail Ms. Rowe a copy of the decision. He stated he mailed her a copy of the decision. He stated he went to the presentence report that had been prepared on Brian and obtained the address of Ms. Rowe. He stated he mailed the decision to 1003 E. 15th Street, Richmond, Virginia.

Mr. Motley was asked if he attempted to call Ms. Rowe and advise her of the decision and he stated all he had was a couple of telephone numbers for relatives as she did not have a telephone. Mr. Motley furnished the two telephone numbers to this investigator and it was brought to his

attention that the number left by Ms. Rowe when she called on April 5, 1996 was different than the two numbers he had for her. Mr. Motley was asked if he attempted to advise Brian Rowe of the denial by the Court of Appeals and he stated he did not. Mr. Motley advised that when Ms. Rowe brought in the \$100 payment on June 10, 1996 he was not present in his office.

No June payment

Mr. Motley was asked if he had talked with either Brian Rowe or his mother prior to the statute running on the appeal and he stated he does not recall whether or not he talked with either before May 15, 1996.

Mr. Motley stated he does recall talking with Ms. Rowe sometime after the appeal was denied; however, he does not recall when he talked with her. He stated apparently after he talked with her she called Brian and he received a phone call from Brian and told him about his appeal denial. He stated after that he received a letter from Brian dated June 18, 1996 and he furnished a copy of that letter to this investigator.

Mr. Motley was asked to check his phone bills to determine if he had received a collect call from Brian between the date of the denial of the appeal, April 15, 1996, and May 15, 1996, the date the statute ran. He reviewed his phone bills but could find no phone calls from Brunswick Correctional Center or Lawrenceville, Virginia where Brian is incarcerated.

F:\Campbell\Victor.moi/rto

CLARITHA ROWE: DIRECT TESTIMONY

1 A For him to file the appeal?

2 Q You mentioned a motion to withdraw the
3 guilty plea.

4 A Okay.

5 Q You say you got a copy of that, or did
6 you?

7 A Yes, sir. A motion to withdraw the
8 guilty plea?

9 Q Right.

10 A Yes.

11 Q Okay. Was this something that you picked
12 up from Mr. Motley's office?

13 A Yes, sir.

14 Q Or something he mailed to you?

15 A No. Mr. Motley never mailed me anything.
16 The only time I got a correspondence from him was in
17 June when I found out about the denial of the appeal.
18 I went to his office and I asked him about it because
19 Brian had called me, told me he had found out about
20 it. This was in end of May when Brian found out
21 about it. And I went to Mr. Motley's office and
22 asked him about it. And I asked him, because we had
23 talked on the phone, and he said -- about the appeal.
24 He kept saying he couldn't do anything about it.
25 Even though he was charging me money, he said he

1 A I asked him why he didn't send Brian
2 something in jail. He said all his correspondence
3 was through me and that I was supposed to relate it
4 to Brian, because he never mailed Brian anything.

5 Q Did Mr. Motley at any point tell you it
6 was too late to appeal to the next level?

7 A After it was too late he told me. This
8 was in May he told me. He said, he said he couldn't
9 do anything about it. It was nothing he could do.
10 It wouldn't do any good. The date had already passed
11 by.

12 Q Did this conversation take place the
13 first time you went to see him after you learned of
14 the denial of the appeal?

15 A The first time I went to see him after I
16 learned, after I learned about the denial.

17 Q Right.

18 A I called him on the phone.

19 Q Uh-huh.

20 A Asked him about it. At that particular
21 time I talked to him, I didn't know it was another
22 step that could be taken. I had no idea then.

23 Q Had you received the copy of the decision
24 of the Court of Appeals at that point?

25 A No, sir.

CLARITHA ROWE: DIRECT TESTIMONY

1 discuss the case in any way?

2 A Huh-uh. I just went to pay the money on
3 the appeal.

4 Q So was there, was there any instance
5 where you learned of the nature of what was going on
6 with the appeal when you were paying a payment on the
7 debt?

8 A I didn't know anything about the appeal
9 until May when he said it was denied, when Brian
10 called me, told me it was denied.

11 Q Now, when Mr. Motley told you that the
12 appeal was denied, did he tell you that there was
13 something else that could be done or did he tell you
14 there was nothing else that could be done?

15 A He told me there was nothing else he
16 could do.

17 Q Did you discuss with Mr. Motley your
18 expectation that, the thought the appeal was for the
19 purpose of getting a new trial?

20 A Uh-huh, that's what I thought appeal was.
21 I didn't have any knowledge of anything like that.

22 Q When did you discuss that with Mr. Motley
23 before or after you found out of the denial decision?

24 A I didn't find out about the denial until
25 May. That's when communication between me and him

CLARITHA ROWE: DIRECT TESTIMONY

1 had broken down. At that particular time I stopped
2 talking to him so it had to have been before. I
3 stopped -- when he told me in that office what he
4 told me, it was just like I, even though he only
5 charged me a thousand dollars, I trusted him, and
6 Brian trusted me because I trusted him.

7 He, he made he feel like somebody that
8 was stripped right in his office. I felt like the
9 stupidest person in the whole world getting my son to
10 plead guilty to all that stuff. And he turned around
11 and he had the attitude he had, Don't you know your
12 son was the main person. It was right in the
13 pre-sentence report. That's what he said. You can
14 look at the tape yourself or the confession. And
15 this was the last, this was the last time I talked to
16 him.

17 Q Now, let me take you back just a second
18 to --

19 A I just want to ask him why he did what he
20 did. I just want, I just want to see his face and
21 ask him why did he do what he did. I'm a nurse and I
22 know that people supposed to have integrity, but to
23 sit down and said he did take Brian's case and he
24 know from the start what he was going to do, I just
25 want to ask him why he did it. That's why I want to

CLARITHA ROWE: CROSS EXAMINATION

1 A Which trial?

2 Q Brian's trial.

3 A Before you -- when we admitted Mary
4 Langer as an attorney?

5 Q Right. And you-all hired me, about how
6 long -- how much later was it before the trial was
7 supposed to be?

8 A We hired you right around -- I don't
9 remember the time frame, exact time.

10 Q Two to three weeks be about right, half a
11 month?

12 A Brian was supposed to go to trial
13 sometime in that June.

14 Q Uh-huh.

15 A Represented by Mary Langer.

16 Q Okay.

17 A Now, I can look at the receipts on my
18 papers and tell you about when that was.

19 Q Uh-huh. Now, why did you-all want to
20 leave the Public Defender?

21 A Brian had -- initially Ms. Langer wanted
22 Brian to plead guilty, and Brian refused to plead
23 guilty. So we asked her to take it to trial. At
24 that particular time she was getting ready to take it
25 to trial. It's, it's under the assumption, I guess,

1 A To first-degree murder?

2 Q Yeah.

3 A Do you?

4 Q I hadn't talked to her.

5 A Did you know at the time that I hired you
6 why she wanted him to plead guilty to two counts of
7 first-degree murder?

8 Q No. Because I had never talked to her so
9 I don't know.

10 A Okay.

11 Q Would you think it would be based on what
12 she knew about the case?

13 A I don't know. I would have to ask her
14 that.

15 Q Okay.

16 A I don't know.

17 Q Have you ever listened to the videotape
18 confession that he gave about this?

19 A Man, that's interesting, Mr. Motley,
20 because when you first, when you first approached the
21 Prosecutors Attorney's Office, they gave you that
22 video. And I asked you in your office, I said, Do
23 you want us to listen. You said you didn't have to
24 listen to it because they had already told you what
25 was on the video.

CLARITHA ROWE: CROSS EXAMINATION

1 Q Just show where it says you did not know
2 he was going to plead guilty?

3 A It says -- I'm going to have to read the
4 first couple of sentences on the first page. It
5 says, I feel helpless and totally betrayed. Right
6 there I was telling you, telling the Bar that you
7 betrayed me. One of my initial complaints was your
8 lack of concern for Brian, now incarcerated. I hired
9 Mr. Motley it was because Brian -- when I hired Mr.
10 Motley, it was because Brian was given your name by a
11 fellow inmate which at the time Brian was beginning
12 to go to trial with a court-appointed attorney.

13 That's what I expected you to do, Mr.
14 Motley, when I hired you. If I thought Brian was
15 going to plead guilty when I hired you, then what was
16 the need of him leaving Ms. Mary Langer. Mary Langer
17 was getting ready to take him to trial. I had asked
18 her to take him to trial. It does specifically say
19 that, that in that complaint, but it's there if you
20 read it.

21 Q Okay.

22 A You understand what my complaint was.

23 Q Okay. Then I wrote an answer to that
24 complaint. Did you see an answer that I wrote to
25 that complaint?

CLARITHA ROWE: CROSS EXAMINATION

1 in place of me; correct?

2 A When? At what point?

3 Q At any point.

4 A I don't understand.

5 MR. HIRSCH: Raise an objection, because
6 the facts are that Mr. Motley was, in fact, hired.
7 So to the extent to which someone else could have
8 been hired, I think is irrelevant.

9 THE WITNESS: I don't think it's
10 relevant.

11 MR. MOTLEY: I think it was irrelevant.
12 If they were dissatisfied, you can fire a lawyer just
13 like you fire anyone else if they show
14 dissatisfaction.

15 THE CHAIRMAN: Mr. Motley, I'm going to
16 sustain your objection, Mr. Hirsch.

17 BY MR. MOTLEY:

18 Q And do you recall calling my office on
19 April 5th and left a message on April 15th you would
20 pay 350 to 400, the balance the following month?

21 A Left a message with who?

22 Q With my secretary.

23 A All I know is I paid all of it except
24 about -- I got the receipts.

25 Q Uh-huh. But do you recall calling the

CLARITHA ROWE: CROSS EXAMINATION

1 office on April the 5th saying that on April 15th you
2 will pay 350 to 400, the balance the following month?

3 A At some point between my last payment to
4 you and my refusing to pay any other monies, I had
5 become dissatisfied with your services so I didn't
6 feel a need to pay any more money.

7 Q But, in fact, you never came in. You
8 never paid the 350 to 400, did you? In fact, you
9 came in on May the 10th and paid \$100; correct? You
10 have a receipt for that?

11 A I have a receipt. My last receipt I
12 have.

13 Q Is that May 10?

14 A No. It was March of '96.

15 Q Uh-huh.

16 A That's my last receipt that I have.

17 Q Okay. And the Court of Appeals denied --

18 A I remind you that you had told me to
19 break -- if you did take Brian's case to the other
20 step, because the deadline was past due, you wanted
21 another \$2,000.

22 Q Uh-huh.

23 A I hadn't even paid off the other 2,000.

24 Q Now, the Court of Appeals denied his
25 appeal on April 15th; correct?

CLARITHA ROWE: CROSS EXAMINATION

1 A I'm not sure of the date.

2 Q That's the same day you left a message
3 saying you were going to come in and pay 350 to \$400;
4 right?

5 A Mr. Motley, I can't say that I left a
6 message with anybody.

7 Q Uh-huh.

8 A The last, the last payment I have to your
9 office was March 6th. I have that on -- in my
10 records.

11 Q Uh-huh. And then this letter that you
12 were showed dated June 12th from me, this was after
13 you had found out that the appeal had been denied;
14 correct?

15 A This was after. Now, which letter are
16 you talking about?

17 Q This letter right here.

18 A This is after I visited your office --

19 Q Right.

20 A -- and confronted you. That's when you
21 mailed me that.

22 Q Right. You found out the appeal had been
23 denied. This is VSB Exhibit 9?

24 A I found out the appeal had been denied
25 for Brian.

CLARITHA ROWE: EXAMINATION BY COMMITTEEPERSON WOODWARD

1 concerned about two particular points in time. One
2 is what happened before Mr. Rowe, Brian Rowe, pleaded
3 guilty and what was he told at that point, and the
4 other point in time that we find crucial is what
5 happened after the Circuit Court of Appeals denied
6 the appeal. And if you would focus on those two
7 points for the Committee's benefit, we would be most
8 appreciative. Ms. Woodward.

9 BY MS. WOODWARD:

10 Q Thank you very much.

11 Ms. Rowe, if you would look at the Bar's
12 Exhibit No. 3. It has Mr. Motley's letterhead on the
13 front of it. And if you will go to the last page of
14 that exhibit. And there -- the very last page. Mr.
15 Hirsch, could you help her. The very last page.

16 MR. HIRSCH: You mean the receipts?

17 MS. WOODWARD: Yes.

18 BY MS. WOODWARD:

19 Q And there are four receipts on that page.
20 The third one dated, is dated 5-10, and it's received
21 of Claritha Rowe.

22 A Okay. I see that.

23 Q Do you see that?

24 Do you recall being at Mr. Motley's
25 office on May 10th?

CLARITHA ROWE: EXAMINATION BY COMMITTEEPERSONS WOODWARD & MARTIN

1 A I have -- see, I have a habit of keeping
2 everything. I have receipts going back ten years,
3 15, 20 years. And I have envelope there with all my
4 receipts in it. And my last receipt I have, Mr.
5 Hirsch, it's that.

6 Q The question I asked, do you recall being
7 at his office that day in that financial transaction?
8 Do you recall your visit to his office that day?

9 A I don't.

10 MR. MARTIN: What was the answer to that?

11 A The last receipt I had the balance was
12 \$750. That was on March 6th of '96.

13 MS. WOODWARD: I have no further
14 questions, Mr. Chairman.

15 THE CHAIRMAN: Mr. Martin.

16

17 EXAMINATION BY MR. MARTIN:

18 Q I know this receipt on May 10, '96 is --
19 this is not familiar to you in any way?

20 A No, sir.

21 Q No. Well, who was making the payments?
22 Were you making them; was someone else?

23 A I made all the payments.

24 Q You made them. When you made them, you
25 would go to the office and make them in person

1 THE WITNESS: Somewhere.

2 THE CHAIRMAN: Ms. Rowe, hold on for a
3 second.

4 MR. MARTIN: I would like to hear.

5 THE CHAIRMAN: Going to overrule your
6 objection, Mr. Motley.

7 MR. MOTLEY: Please note my objection on
8 the record. Mr. Rowe is here from what I understand.

9 MR. MARTIN: Well, trying to find out
10 what he knows. He's talked to you.

11 MR. MOTLEY: This stating what someone
12 else said.

13 MR. MARTIN: Well, it's not offered for
14 the truth at this point. If he said it, it was
15 wrong, fine.

16 BY MR. MARTIN:

17 Q But you're saying, Ms. Rowe, that when
18 you spoke with your son Brian about his appeal being
19 denied, your belief is that he told you when it had
20 been denied?

21 A I believe that's when he talked to Mr.
22 Motley, because he was pretty upset.

23 Q All right. Did he say anything to you in
24 that conversation about, and the time had run, I
25 couldn't appeal it anymore, it's too late to file

1 with the Supreme Court, anything like that? Did he
2 say it was over?

3 A Yeah, because he was upset because he had
4 said that he had made calls during that time frame.

5 Q Right?

6 A Between March and April and Mr. Motley
7 never did return his calls, although Mr. Motley knew
8 at that time that the appeal had been denied.

9 Q Okay. So when you talked to Mr. Motley,
10 did you make any complaint to him at that time about
11 what was going on?

12 A Yeah.

13 Q What did you complain to him about?

14 A I told him, I asked him -- okay. I
15 called him on the phone and I asked him why he hadn't
16 notified me about the appeal.

17 Q Asked why he hadn't, had not, notified
18 you of the appeal?

19 A I told him, I said, Brian just called me.

20 Q What did Mr. Motley tell you about that,
21 why he hadn't notified you about the appeal being
22 denied; do you remember?

23 A He told me it won't do any good to do
24 anything more about Brian, about the appeal or
25 anything.

CLARITHA ROWE: EXAMINATION BY CHAIRMAN FREED

1 Q When the Circuit Court of Appeals denied
2 the appeal?

3 A Uh-huh.

4 Q Until late May when you went to talk to
5 Mr. Motley in his office, did you have any
6 conversation with Mr. Motley at all?

7 A Not that I can recall. I was just
8 waiting for the results of the appeal.

9 Q Okay. Do you know if Mr. Motley had any
10 conversations with Brian during that time?

11 A He did not.

12 Q And how is it again that Brian knew that
13 his appeal had been denied?

14 A He had made several attempts to talk to
15 Mr. Motley by phone.

16 Q And this would have been in April, May
17 time frame?

18 A Yeah.

19 Q '96?

20 A He said Mr. Motley refused to take his
21 calls. And on the time, during the time that in May
22 when he talked to me, he said he finally did accept
23 his phone call and related to him that the appeal had
24 been denied.

25 Q And do you have any idea when that phone

1 Richmond --

2 A Yes, sir.

3 Q -- from Happy Mart incident.

4 Before you hired Mr. Motley, had you
5 determined that you wanted to go to trial on the
6 matter or that you were going to plead guilty to some
7 charges?

8 A From my understanding I was going to
9 plead guilty.

10 Q All right. When you hired Mr. Motley,
11 why did you hire him?

12 A Because the lawyer that I had prior to
13 him was -- I felt that she wasn't going to represent
14 me, you know, to the fullest so I hired Mr. Motley.

15 Q All right. Now, you, you went to court
16 on a given day and you pled guilty to some charges.
17 Do you remember that?

18 A Yes.

19 Q All right. Let's back up from that day.

20 Prior to your going to court, did Mr.
21 Motley indicate to you the nature of each of the
22 charges which you were charged with? Did you go
23 over -- did he go over with you the charges?

24 A That I be pleading guilty to?

25 Q The charges that you were charged with.

BRIAN ROWE: CROSS EXAMINATION

1 Q But there's a lot of other things you
2 don't remember; isn't it true?

3 A Yeah. I mean, I remember the
4 conversations that we had. I can't remember, you
5 know, exactly, you know, the charges, you know. I
6 mean, other stuff that we talking about, you know, a
7 little bit back further, you know.

8 Q Okay. And at the time that all this was
9 going on, are you on any kind of mental medication
10 now or depression medication?

11 A Huh-uh.

12 Q But at the time that the pre-sentence
13 report was going on, do you remember probation
14 officer coming talk to you for pre-sentence report?

15 A Mary Dunlap.

16 Q Yeah.

17 Do you know after she talked to you, you
18 called me, wanted me to see if she got all the right
19 answers because you were on depression medicine,
20 didn't really know what you said or thought you might
21 have said some of the wrong things?

22 A Now, she came to see me, she asked me
23 what was wrong. I said I had -- because the
24 medication I was taking was like sleeping medicine.

25 Q Uh-huh.

1 A So that day when she came to see me, she
2 just happened to caught me the day I had took the
3 medication.

4 Q So how long had you been taking that
5 medication?

6 A When I first got locked up down at the
7 jail in January, I think. I got off of it, you know,
8 little time after that, you know.

9 Q Uh-huh. But you were on it when she did
10 the pre-sentence report?

11 A Yeah.

12 Q So that means that you were on it
13 basically a lot of time that you and I talked; right?

14 A The conversation that we had in April,
15 May or June I won't on it.

16 Q Uh-huh. But I'm talking about during
17 the -- whether or not to plead guilty, what the
18 sentence might be, whether or not the sentence
19 guidelines were discretionary or not, you were on
20 those medications then; right?

21 A I can't remember. I don't see what the
22 medication got to do with the conversation that we
23 had.

24 Q Well, it has to do with your memory.
25 That's what I'm talking about.

1 Why did you have me question Mary Dunlap
2 about the answers you gave when she questioned you
3 about the pre-sentence report? Why did you ask me to
4 check with her to see if she had the right answers?

5 A Uh-huh.

6 Q Do you remember asking me to check with
7 her to see if she had the right answers?

8 A I can't remember. I may have, but I
9 can't remember doing so.

10 Q Uh-huh. And when we were in trial when
11 you were pleading guilty, the judge asked you a lot
12 of questions, didn't he?

13 A Yeah.

14 Q You answered yes to all of them, didn't
15 you?

16 A Told me when I was pleading guilty.

17 Q Right.

18 A I mean, being that I didn't know nothing
19 about the law, you know, when Judge Wilkerson was
20 reading the charges out to me, you were whispering in
21 my ear telling me which, you know, you know, plead
22 guilty to like if he read out a charge second-degree
23 murder, your whisper in my ear say plead, plead
24 guilty, plead guilty.

25 Q Uh-huh. And before we even went in

BRIAN ROWE: CROSS EXAMINATION

1 Corrections. I wasn't at Southampton Receiving on
2 April 22nd. Must have been one of, one of your other
3 clients.

4 BY MR. MOTLEY:

5 Q I don't have any down there.

6 Did you ever call me from the Receiving
7 Center?

8 A Yes, I think I have.

9 Q Uh-huh. And you called me from Brunswick
10 as well?

11 A Yes.

12 Q Do you recall what the conversations
13 were?

14 A I called you a number of times.

15 THE CHAIRMAN: Mr. Motley, excuse me. Is
16 this, I would take it, for the period after April 15,
17 1996?

18 MR. MOTLEY: Oh, yes, sir.

19 THE CHAIRMAN: Is it between April 15,
20 1996 and May 15, 1996?

21 MR. MOTLEY: Yes, sir. It is between
22 these April 30th and April 22nd.

23 THE CHAIRMAN: All right.

24 BY MR. MOTLEY:

25 Q Do you recall conversation that we had

1 Brunswick since March of '96.

2 THE CHAIRMAN: Move on, Mr. Motley.

3 BY MR. MOTLEY:

4 Q So you could have made this call on April
5 30th, '96 if that was a phone call on April 30, '96;
6 is that correct? April 30th of '96?

7 A At Brunswick?

8 Q Uh-huh. Uh-huh.

9 A Yeah.

10 MR. MOTLEY: No further questions at this
11 time.

12 MR. HIRSCH: No questions.

13 THE CHAIRMAN: Ms. Woodward.

14
15 EXAMINATION BY MS. WOODWARD:

16 Q Mr. Rowe, when you attempt to call your
17 lawyer, do you write it down? Do you keep any kind
18 of record of your attempted contacts with Mr. Motley?
19 I realize he's not your lawyer now, but when he was,
20 did you keep any notebook or anything about when you
21 tried to call him and when you talked to him?

22 A Huh-uh. A lot of time when I tried to
23 call him, his secretary answered the phone said he
24 wasn't there. It was a lot of time that I called,
25 that they didn't accept the phone calls.

BRIAN ROWE: EXAMINATION BT WOODWARD & WEBSTER

1 Q But you didn't keep your own notations
2 about when you tried to call?

3 A Huh-uh.

4 Q And on those occasions when you did call
5 and talk with Mr. Motley, did you make any notes in a
6 notebook or anything about those conversations?

7 A No.

8 Q And did you receive anything by mail from
9 Mr. Motley between April 15, 1996 and May 15, 1996?

10 A No. In fact, the only thing I received
11 from Mr. Motley from, from him the whole time being
12 my attorney was in June when I wrote that letter
13 right there, he responded sending me the decision on
14 appeal.

15 Q Okay.

16 MS. WOODWARD: I have no further
17 questions.

18 THE CHAIRMAN: Ms. Webster.

19

20 EXAMINATION BY MS. WEBSTER:

21 Q When you talked to Mr. Motley, I think
22 you said it was either May or June of '96?

23 A Uh-huh.

24 Q And he told you that at that time the
25 appeal had been denied. Was there such a

1 conversation?

2 A In June.

3 Q Okay. He told you that, then that the
4 appeal had been denied?

5 A He said it had been denied. He said it
6 had been denied a couple of weeks ago. Those were
7 his exact words.

8 Q Did you say anything, say anything to him
9 then like, well, Why didn't you tell me sooner or
10 anything? Did you say anything of that nature at
11 all?

12 A I asked him how come he didn't send me
13 anything in the mail. He said that he had tried to
14 get in contact with my mother, but she was never at
15 home.

16 Q I see. Did he say anything else by way
17 of explanation, anything in addition to what, to
18 that?

19 A I can't remember.

20 Q Okay. Did he say anything to you about
21 whether or not an additional appeal would have been
22 successful?

23 A No, he never said that.

24 Q I would like to go back ask you a little
25 bit about yourself at the time that you hired, you

1 Q Okay. Was, what was your understanding
2 of what those medications were?

3 A I was taking the medication was
4 prescribed for me when I was on the street by my
5 family psychiatrist and then from a point I had
6 stopped using them, but when I got back down to City
7 Jail, they put me back on it because I had trouble
8 sleeping and concentrating. They said it supposed to
9 calm my nerves and, you know, help me sleep.

10 Q So first time you ever got that
11 prescription was before you were arrested for this
12 offense?

13 A Uh-huh.

14 Q Did -- well, at the time that you met
15 with Mr. Motley in the jail, the first time, were you
16 on any other drugs of any type, legal or illegal
17 drugs?

18 A No.

19 Q Okay. How about -- so the only thing in
20 your system was this drug that was supposed to help
21 you sleep and calm you down?

22 A See, I only take the drug at nighttime.

23 Q Right.

24 A Maybe about 8 o'clock. So whenever Mr.
25 Motley came to see me, it would be in the daytime so,

BRIAN ROWE: EXAMINATION BY GIBNEY

1 A Okay.

2 THE CHAIRMAN: Mr. Palmore.

3 MR. PALMORE: No questions.

4 THE CHAIRMAN: Mr. Gibney.

5

6 EXAMINATION BY MR. GIBNEY:

7 Q You -- as to what you got out of this
8 decision to plead guilty, you were able to have a
9 first-degree murder charge reduced to second-degree
10 murder; is that right?

11 A Yes.

12 Q And the potential penalty for
13 first-degree murder is a lot heavier, isn't it?

14 A Yes.

15 Q You get a lot more time -- you can get
16 jail; you can go to jail for a lot longer?

17 A Yes.

18 Q So that's why you took the guilty plea;
19 is that correct?

20 A Uh-huh.

21 Q Right.

22 Now, as to this left over pill, you take
23 your pills at the sick call line?

24 A Yeah.

25 Q They don't like you taking pills back to

BRIAN ROWE: EXAMINATION BY GIBNEY

1 your cell?

2 A Yeah, unless you hold it in your mouth.

3 Q And that's what you did?

4 A Yeah.

5 Q Hold it in your mouth, snuck it back to
6 your cell, took it out and saved it for later; is
7 that right?

8 A Uh-huh.

9 Q Yes?

10 A Yes.

11 Q So to the extent you were under the
12 influence of the pill when the probation officer came
13 to see you, it was a pill you shouldn't have had; is
14 that right?

15 A Yes.

16 Q Okay. Now, had you -- have you done that
17 on other occasions?

18 A No. That was just that one time. I
19 wasn't on the pill but like a short period of time,
20 you know.

21 Q Okay.

22 A Until I got off of it.

23 Q Okay. But you're not doing that today;
24 right?

25 A No. I stopped taking the medication

BRIAN ROWE: EXAMINATION BY CHARIMAN FREED

1 Q Okay. Now, and you were in Brunswick
2 before your appeal was denied by the Circuit Court of
3 appeals, which was April 15th, 1996?

4 A Yes, I was at Brunswick.

5 Q Your testimony is that you were at
6 Brunswick?

7 A Uh-huh.

8 Q From the time you left Southampton until
9 the second telephone call that you described of a
10 while ago, how many times have you, have you
11 talked -- did you talk to Mr. Motley about the
12 appeal?

13 A I can't -- it may have been like three
14 times.

15 Q So it's more than just two times;
16 possible it could be as much as six or eight times?

17 A No, I don't think it was that many. If I
18 can remember, I think I talked to him one time in
19 Southampton when I first got there and I called him.

20 Q Okay. But from the time you left
21 Southampton, which you said was in March of '96 --

22 A Yeah.

23 Q -- how many times have you talked to Mr.
24 Motley since you have left Southampton?

25 A I can't remember. I can't tell you.

1 Q Once, twice, three times, four times?

2 Let me ask the question a little
3 differently. You testified you can remember the --
4 you said there might have been a third. Is it
5 possible that it could have been more than three?

6 A I remember there were times when I called
7 him and I didn't talk to Mr. Motley. I talked to his
8 secretary for like make five, 10 minutes while he was
9 gone away maybe to a court hearing or something.

10 Q This was after you left Southampton when
11 you got to Brunswick?

12 A Yes.

13 Q Did you have any conversations with the
14 secretary about the status of the appeal?

15 A No.

16 Q You never talked to the secretary about
17 the appeal at all?

18 A No.

19 Q Let's rule the secretary out.

20 How many times have you talked to Mr.
21 Motley? Is it possible that you have talked to him
22 more than three times since you left Southampton?

23 A It may have been like three or four
24 times.

25 Q Can you tell us the earliest time that

BRIAN ROWE: EXAMINATION BY CHAIRMAN FREED

1 you can remember that Mr. Motley told you about your
2 appeal being denied?

3 A The earliest time? Like --

4 Q First time.

5 A -- in the middle of June when I called
6 him.

7 Q Did you make any collect calls to Mr.
8 Motley from Brunswick?

9 A Yes.

10 Q And did you make any of them before June
11 when he told you it was too late?

12 A I called him, I called him in May. He
13 said that he hadn't heard anything about the appeal.

14 Q Now, before that, had you made collect
15 calls to Mr. Motley's office before and talked?

16 A Yeah, I may have.

17 Q In any of these calls, did you talk to
18 Mr. Motley?

19 A I may. I can't remember. I may have
20 talked to him once.

21 Q All right. If I remember correctly, you
22 stopped taking the medicine long before you got to
23 Brunswick?

24 A Yeah.

25 THE CHAIRMAN: I don't have any further

INVESTIGATOR LACY CAMPBELL: DIRECT EXAMINATION

1 against Mr. Motley; is that correct?

2 A That's correct.

3 Q In your investigation of the complaint,
4 did you have a discussion with Mr. Motley?

5 A Yes, sir, I did.

6 Q Did you ask Mr. Motley whether he
7 informed Brian Rowe of the denial of his appeal?

8 A Yes, I did.

9 Q What was the answer?

10 A He told me he did not. Then I asked what
11 happened in his appeal. No. I told -- he told me he
12 did not. Then I asked him did he have a conversation
13 with Brian in the 30-day --

14 Q Window?

15 A -- window.

16 Q Right.

17 A And he said he remembers talking to Brian
18 but he doesn't remember when it was.

19 Q All right. Did you talk with Mr. Motley
20 about whether he discussed with Brian the sentencing
21 guidelines?

22 A Yes, I did.

23 Q What was the nature of that conversation?

24 A He said he advised Brian that the
25 sentencing guidelines were discretionary and they

1 talked about or he said he recommended that if he
2 pled guilty, the judge, if he sentenced outside the
3 guidelines, he had to do so for extraordinary
4 reasons, and it -- he would appear to be less
5 culpable if he, if he pled guilty in the sentencing
6 guidelines.

7 Q Did you look at what's marked Bar or
8 Respondent's Exhibit 1 this morning, which is two
9 phone bills which I'm giving you a copy of?

10 A Yes.

11 Q Did I give you that this morning?

12 A Yes.

13 Q Did you follow up those phone numbers see
14 what --

15 A I followed up the top one to
16 Lawrenceville.

17 Q What is that?

18 A That is to the Brunswick Correctional
19 Center. Called MCI, said that a line put in for the
20 use of inmates.

21 Q Okay. How about the bottom bill?

22 A I could not find anything out about that.

23 Q Did you discuss with Mr. Motley during
24 your investigation any of his phone bills?

25 A Yes. I asked Mr. Motley if he had, if

INVESTIGATOR LACY CAMPBELL: DIRECT AND CROSS EXAMINATION ¹⁵⁶

1 his phone bills showed in that time frame, the 30-day
2 time frame, any phone calls to Mr. Rowe. He pulled
3 his phone bills and he, and he looked over them, and
4 he said these are the ones I have in that time frame.

5 And I said I'll take them, I'll make phone calls. He
6 said, no, let me do it. He made phone calls, got no
7 answer from those lines, from the calls he used.

8 Q Were they the same as Respondent's 1?

9 A No. He did not furnish that one to me,
10 no. He furnished the second one and another one.

11 Q Okay. So one of these numbers is one of
12 the numbers he furnished?

13 A The bottom one is one he furnished, yes.

14 Q Do you want to check that, make sure?

15 A Uh-huh. Because I have a copy of what he
16 furnished me.

17 Q Okay. All right. Answer questions from
18 Mr. Motley or the Committee, please.

19

20 CROSS-EXAMINATION

21 BY MR. MOTLEY:

22 Q Okay. When you came to talk to me, that
23 was basically unscheduled visit with regard to this,
24 wasn't it?

25 A I was working two complaints at one time.

INVESTIGATOR LACY CAMPBELL: CROSS EXAMINATION

1 the bottom one?

2 A The bottom one. I believe it's the
3 bottom one.

4 Q Yes. Could I see the one that you have?

5 A Yes, sir. Uh-huh.

6 It's that same number.

7 I, I tried to call that number after I
8 talked to you. I tried to call that number and I got
9 no answer.

10 Q Okay.

11 A I called it this morning and got no
12 answer. I got no answer on the top number, also.

13 Q Uh-huh.

14 A I called the business office. The
15 business office would not give me any information.

16 Q Okay.

17 A I called the institution at Brunswick.

18 Q Uh-huh.

19 A I asked the people at the institution if
20 they had a number such as that. They said not at the

21 institution. I said, is that a pay phone number

22 where inmates can use the pay phone and call out.

23 They said no. MCI has inside inmate telephone. So I

24 called MCI this morning, gave MCI that number. They

25 said yes, that's a inmate phone number at Brunswick.

1 Q Okay. The top one.

2 A But I wasn't able to find out about the
3 other one.

4 Q Can you show me the phone number that you
5 called to try to verify this?

6 A The bottom numbers?

7 Q Well, either one. Both.

8 A I called 447-3857. I could not verify
9 that one.

10 That's the one at Brunswick.

11 Q South Hill, I have it written down there.

12 A Oh, that one there.

13 Q Right.

14 A No.

15 Q Uh-huh.

16 A No.

17 Q Did you ever call to that correctional
18 center in that time and see whether or not Brian Rowe
19 was listed as inmate during that time period?

20 A No, I didn't.

21 Q Would you be willing to do that in
22 interest of justice?

23 A Oh, absolutely.

24 Q Okay. I think that bottom phone number
25 is the one.

1 we'll give you and Mr. Hirsch an opportunity to ask
2 additional questions.

3 MR. MOTLEY: Yes, sir.

4 THE CHAIRMAN: I take it this is the
5 first time you have seen this?

6 MR. MOTLEY: Oh, yes. Definitely.

7 THE CHAIRMAN: By all means, you'll have
8 an opportunity to ask Mr. Lacy some more questions.

9 THE WITNESS: Harry, I'm not sure which
10 order because I didn't number them, because a lot of
11 times in an interview you may start an interview off,
12 then you -- you're jumping back and forth. And so
13 the notes in lots of times are not in order of, of
14 when I dictate a report. I try to put the report in
15 chronological order, but sometimes the notes are not.

3 days

16 THE CHAIRMAN: Let's go off the record
17 for a second.

18 (Discussion off the record.)

19 THE CHAIRMAN: Let's go back on the
20 record. Mr. Lacy is still a witness. I think that
21 Ms. Webster asked for Mr. Lacy's notes.

22 My suggestion, unless I'm overruled by
23 anybody on the Committee, is that the typewritten
24 memorandum and the handwritten memorandums be put
25 together as one exhibit and marked Bar Exhibit 12.

INVESTIGATOR LACY CAMPBELL: DIRECT EXAMINATION

1 well?

2 THE WITNESS: Yes.

3 MR. HIRSCH: And was this work product
4 the results of your reviewing your handwritten penned
5 notes?

6 THE WITNESS: Part of it, yes.

7 MR. HIRSCH: What other source of
8 information is included as a part of your preparation
9 of the typed memorandum of interview other than the
10 handwritten notes?

11 THE WITNESS: My memory of what occurred
12 at the interview. *3 days (weekend)*

13 MR. HIRSCH: All right. And in, in, in
14 investigating cases for the Bar, is the manner in
15 which you have penned your notes and then
16 subsequently typed a memorandum of interview the
17 procedure that you normally use?

18 THE WITNESS: Yes.

19 MR. HIRSCH: And is the memorandum of
20 interview simply a, a summary of your discussion with
21 Mr. Motley?

22 THE WITNESS: Yes. From --

23 MR. HIRSCH: It's not a witness
24 statement?

25 THE WITNESS: No. No.

1 A That's correct. Yes.

2 Q Is that it.

3 Now, is there anything in your
4 handwritten notes that records that part of your,
5 that part of his statement to you?

6 A I don't think so. I reviewed them, and I
7 don't see anything, no.

8 Q Okay.

9 MR. HIRSCH: Mr. Chairman, I don't want
10 to break this up, but I think what your
11 characterization of the statement of Mr. Campbell was
12 a little bit too inclusive. I think what the
13 statement is that Mr. --

14 MR. MOTLEY: I'm going to object unless
15 he can put that in, I guess. I don't know if we can
16 object when you-all asking questions or not. Unless
17 he can put it in form of hearsay or irrelevant or one
18 of the normal objections to evidence that you would
19 hear. I mean --

20 MR. HIRSCH: I'm not objecting to the
21 question. I'm trying to clarify a question which I
22 think has been misstated.

23 MR. MOTLEY: I think it's improper at
24 this time.

25 THE CHAIRMAN: Let's go off the record

INVESTIGATOR LACY CAMPBELL: EXAMINATION BY COMMITTEEPERSON WEBSTER
1 for a second.

2 (Discussion off the record.)

3 BY MS. WEBSTER:

4 Q Would you tell us again what Mr. Motley
5 told you with respect to the question of whether or
6 not he ever advised Brian Rowe that the appeal had
7 been denied?

8 A He told me no. But then --

9 Q Now, are you certain of that?

10 A Yes.

11 Q And why are you certain of that if that
12 is not recorded in your handwritten?

13 A From my memory. From my memory. A lot
14 of times I do not record everything in an interview.
15 I just can't. I don't write that fast. It's an
16 ongoing interview, and I record as best I can.

17 Then when I get back and dictate my
18 report, I use my notes and my memory to dictate my
19 report. You will not find in any of my reports
20 everything in these notes. My report will normally
21 be more than what's in my notes because I rely on my
22 memory also.

23 Q Now, did you -- did I understand
24 correctly that you went to Mr. Motley's office on, on
25 a scheduled time; is that correct?

INVESTIGATOR LACY CAMPBELL: EXAMINATION BY COMMITTEEPERSON GIBNEY

1 MS. WOODWARD: No questions.

2 THE CHAIRMAN: Mr. Palmore.

3

4 EXAMINATION BY MR. GIBNEY:

5 Q Is it -- there's a distinction in my mind
6 here. Is it your testimony that he said he did not
7 call him or he did not recall calling him before the
8 5 --

9 A At one point he said he did not, then
10 later on in the conversation I asked him or, or I'm
11 not sure whether I asked him, but it came out in the
12 conversation that he had talked with him at some
13 point in time. And he said he couldn't remember at
14 what point in time he talked with him about the
15 appeal being denied.

16 Q Okay.

17 A So, so in one, one sense he said no, but
18 the other sense he said he wasn't sure.

19 Q Well, but his second sentence was that he
20 knows he talked with him about the appeal after the
21 denial; is that right?

22 A Yes.

23 Q And at that time that he talked about
24 the, the fact that the appeal had been denied?

25 A Uh-huh.

1 Q And the question was, your question that
2 Mr. Motley was uncertain about was whether that was
3 before or after May the 15th which was the cutoff
4 date for the appeal; correct?

5 A Right.

6 Q That's what your notes reflect?

7 A Yes, in those two issues. It was in
8 different parts of the interview.

9 Q Right.

10 A That it was discussed.

11 Q But, but ultimately on the first day,
12 first and only day you interviewed him on this, he
13 told you at some stage in the interview that, yes,
14 Mr. Rowe and I did discuss the denial of his appeal
15 by the Court of Appeals; right?

16 A Yes.

17 Q And unfortunately he didn't know when
18 that was?

19 A That's right.

20 Q "He" being Motley?

21 A Right.

22 Q And then you asked Motley, well, check
23 your phone records, and Motley went through them and
24 couldn't figure out whether he had gotten the call
25 from him or not in that 30-day window of opportunity?

1 A He pulled two phone bills. And I said,
2 Can I have a copy of that. I will check on them.
3 And he says no, why don't I do it now. He went over
4 and he dialed the numbers and he got no answer. He
5 said, well, I can't check on it.

6 Q He couldn't figure out whether they were
7 from the right place?

8 A No. No.

9 Q Then today you have been able to
10 determine that at least one of the -- at least a
11 phone bill that Mr. Motley proffers as his, is, in
12 fact, from Brunswick, which is where Mr. Rowe was?

13 A That's correct. Yes.

14 Q And that's within the magic time frame?

15 A Yes, but that phone bill wasn't given to
16 me on that date.

17 Q Yes. Okay.

18 Okay. Thank you.

19

20 EXAMINATION BY THE CHAIRMAN:

21 Q I'm confused about one small point, Mr.
22 Campbell. When you went to see Mr. Motley, you went
23 to see him on two different matters?

24 A Yes.

25 Q Was this the one, the Rowe matter, was

1 BY MR. MOTLEY:

2 Q Okay. You came to my office on what
3 date?

4 A September 20 according to my notes.

5 Q We were talking about I guess matters
6 that happened in, say, April or May; correct?

7 A Yes.

8 Q Okay. And as you said, I was not
9 prepared for this at all; correct?

10 A No. You went and got your file.

11 Q Right.

12 A When I brought it up, yes.

13 Q Was it you that suggested that I get the
14 phone bills or that something I suggested?

15 A No. I asked you did you have phone
16 bills.

17 Q Uh-huh.

18 A Showing you had received phone calls,
19 long distance.

20 Q Uh-huh.

21 A And you went to your file and you pulled
22 the phone bills.

23 Q Okay.

24 A These were the two phone bills you
25 presented to me were in that time frame.

1 Q Uh-huh.

2 A And so I said, well, could I have a copy
3 of that. I'll check on it. You said no, I'll do it.
4 And you went to the phone and you attempted to call
5 those numbers and I think you got no answer.

6 Q Okay. Did you check on -- I checked them
7 while you were there?

8 A Yes, sir.

9 Q Oh, okay.

10 A You called both of them. Subsequently
11 then I took them home and I got no answer.

12 Q Uh-huh.

13 A Every time I would call, I got no answer
14 so I didn't bother to check anymore.

15 Q You're saying one of these phone bills I
16 did not give you on the day of the interview?

17 A That's correct.

18 Q Does anything look funny on there like it
19 could have been a, I guess, a forgery or anything
20 like that?

21 A No. No.

22 Q So you're satisfied that that other phone
23 bill you didn't see still came from my office?

24 A Yes.

25 Q Okay.

INVESTIGATOR LACY CAMPBELL: RE_CROSS

1 A No, sir. You told me that the notice of
2 the appeal came in several days after the 15th.

3 Q Well, regular mail.

4 A And knew she was to come in. You gave it
5 to your secretary to give it to her when she came in
6 to make the payment. You said the appeal, the appeal
7 notice laid on her desk for several days. You
8 instructed your secretary to mail it to her.

9 Q Uh-huh.

10 A I asked you what address did you mail to
11 her and you went to your file and gave me the address
12 that you had for her. And I checked my files, same
13 address I had for her.

14 Q Uh-huh.

15 A So that --

16 Q Okay. Right.

17 And so if I had done all of that, again,
18 isn't that inconsistent with me saying I did not
19 notify her of the appeal?

20 MR. HIRSCH: Mr. Chairman, I'm going
21 to --

22 THE CHAIRMAN: Sustained. Sustained.

23 MR. MOTLEY: Okay. No further questions.

24 MS. WEBSTER: Can I just ask one?

25 MR. HIRSCH: No questions.

INVESTIGATOR LACY CAMPBELL: EXAMINATION BY COMMITTEEPERSON¹⁸⁹
WEBSTOR AND RE CROSS

1 A (Deponent nodding head.)

2 Q Is that also my correct reading?

3 A Uh-huh.

4 Q Okay. And is that consistent with your
5 recollection of what Mr. Motley said to you?

6 A Yes.

7 MS. WEBSTER: Thank you.

8 MR. MOTLEY: Can we follow up again?

9 And that was basically because you came
10 in on surprise because then I, I showed records
11 verifying otherwise, though, didn't I? Was that
12 statement made before or after I went through my
13 records?

14 THE CHAIRMAN: Mr. Motley, I think we're
15 going to allow you to ask the question because I
16 think in fairness we need to, but you need to ask the
17 witness questions and not argue with him.

18 MR. MOTLEY: Yes.

19 THE WITNESS: Ask me again.

20

21 CROSS-EXAMINATION

22 BY MR. MOTLEY:

23 Q Did I make this statement, "Don't recall
24 whether or not I talked with either before May 15th"?
25 Was that before or after I checked my records? Was

INVESTIGATOR LACY CAMPBELL: RE-CROSS

1 that statement made before or after I did check my
2 records?

3 A Sometime during the interview. That's
4 the best I can say. I just don't recall.

5 Q Again, I was off guard basically when you
6 came in?

7 A Right.

8 Q When you asked about the other case, that
9 file was sitting on the desk, wasn't it? I mean,
10 basically I was ready to go on that one. I had to
11 find the other?

12 A That's the one I called you on.

13 Q Right.

14 THE CHAIRMAN: Are there any other
15 questions? Mr. Campbell, thank you.

16 MR. HIRSCH: May he be released?

17 THE CHAIRMAN: He may be released.

18 THE WITNESS: Should I make that phone
19 call?

20 MR. MOTLEY: I think it would be helpful.

21 THE CHAIRMAN: Yes, if you would, that
22 would help the Committee. We would appreciate it.

23 THE WITNESS: That was only one the
24 number was written on, because I did that myself, the
25 number to confirm that he was in Baskerville on that

1 denial of the appeal other than the phone message
2 which relates to a time when Ms. Rowe was to come
3 into the office to make a payment, and the one
4 telephone bill, which relates to a date in April, I
5 believe, from a phone number in a correctional
6 institution. I mean, we have no basis of knowing who
7 made the call from the correctional institution. We
8 have no basis of knowing who received the call from
9 the correctional institution. And, of course, Ms.
10 Rowe didn't come in on the date she was supposed to
11 come in according to the phone message anyway to pay
12 her bill.

13 With respect to the appeal, it's sort of
14 like those cases where you have a respondent who
15 expects the client to affirmatively act so that the
16 client finds out information as opposed to the
17 attorney taking the affirmative steps to make sure
18 his client knows the information. That's what we
19 have got here. Mr. Motley didn't affirmatively take
20 any steps to make sure that his client or his
21 client's mother knew in a timely fashion of the
22 denial of the appeal.

23 I don't argue that Mr. Motley had the
24 duty to take the appeal to the Supreme Court. I
25 don't think he did, because I don't think it's clear

1 Federal Court with their guidelines. You know what
2 that's like?

3 MR. MOTLEY: Uh-huh.

4 MR. GIBNEY: That's really tough. She
5 was nuts. She just said we're going to go to trial
6 on this. I'm innocent. I had no choice. That could
7 have, that could just as easily have happened to you
8 in this case, because that boy is obviously few cards
9 short of full deck.

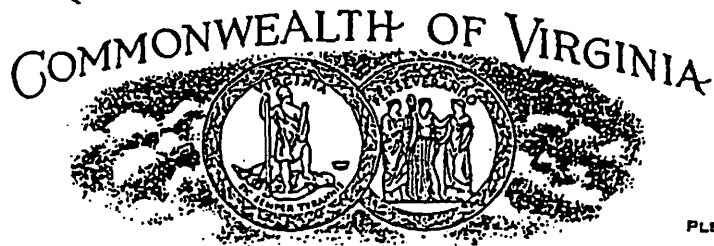
10 MR. MOTLEY: One thing when he came to
11 me, from the minute they came, we were talking
12 pleading guilty.

13 MR. GIBNEY: Well, I understand.

14 MS. WEBSTER: If you had one piece of
15 documentation to that fact in your file, that last
16 part of what we talked about today wouldn't be here.
17 And there had been that cover letter that your
18 paralegal or you sent about the appeal, you wouldn't
19 be here on that. We're not talking about the
20 competence or the quality of your representation.
21 We're just talking about what kind of things could
22 help you prevent sitting in that chair again.

23 MR. GIBNEY: You're just lucky. Without
24 you that kid would have had life without parole.

25 MS. WEBSTER: And these things writing



VIRGINIA STATE BAR

THIRD DISTRICT COMMITTEE

PLEASE REPLY TO:

P. O. Box 6855

Richmond, VA 23230

(804)359-9151

PERSONAL AND CONFIDENTIAL

July 3, 1986

Victor A. Motley, Esquire
P. O. Box 25786
Richmond, VA 23260

RE: BC-DC-03-MOTLEY, VICTOR A.
Complaint by: Virginia State Bar

VSF Docket No. 86-146

Dear Mr. Motley:

After due deliberations, the committee has determined that the conduct alleged does not warrant either a private reprimand or certification to the Virginia State Bar Disciplinary Board provided that you take the following actions within 180 days:

1. Attend three (3) Continuing Legal Education Seminars or their equivalent in the field of tort law. This specifically will include the seminar to be held in Richmond, Virginia on Thursday, September 25, 1986 at the Holiday Inn 6531 West Broad Street Road, which covers sources of insurance coverage for personal injury actions in Virginia.
2. You will read the textbook entitled Virginia Automobile Liability Insurance authored by Wilfred J. Ritz and available through the Harrison Company, publishers, 3110 Crossing Park, Norcross, GA 30071. If you are unable to obtain a copy, you may contact committee counsel listed below who will provide you with a copy on loan.

Mr. Motley
VSB Docket #86-146
7/3/86
Page 2

Upon your certification at the end of 180 days from the date of this letter that you have completed the above requirements, the committee will dismiss the complaint.

Very truly yours,

Christopher A. Meyer

CAM:jj

cc: Harry M. Hirsch, Esquire, Assistant Bar Counsel
Jerry Hendrick, Jr., Esquire, Assistant Secretary
Thomas O. Bondurant, Esquire, Chairman
Harvey Latney, Jr., Esquire



Virginia State Bar

Eighth and Main Building
707 East Main Street, Suite 1500
Richmond, Virginia 23219-2803
Telephone: (804) 775-0500

Facsimile: (804) 775-0501 TDD: (804) 775-0502

September 22, 1993

PERSONAL AND CONFIDENTIAL

Victor Alan Motley, Esquire
P. O. Box 25786
Richmond, Virginia 23260-5786

Re: In the Matter of Victor Alan Motley
VSB Docket No. 91-031-0795

Dear Mr. Motley:

Upon your completion of the terms imposed by the District Committee
Determination (Dismissal With Terms) dated May 8, 1992, this matter is now closed.

Very truly yours,

A handwritten signature in dark ink, appearing to read "H. M. Hirsch", written over the typed name.

Harry M. Hirsch
Deputy Bar Counsel

HMH/ew

cc: Debra S. Gardner, Chair
Robert C. Elliott, II, Secretary
Ronald C. Burton (Complainant)
✓ Clerk of the Disciplinary System

V I R G I N I A:

BEFORE THE THIRD DISTRICT COMMITTEE
OF THE VIRGINIA STATE BAR

IN THE MATTER OF VICTOR A. MOTLEY

VSB DOCKET NO.: 91-031-0795

DISTRICT COMMITTEE DETERMINATION
(DISMISSAL WITH TERMS)

On January 22, 1992, a hearing in this matter was held before a duly convened panel of the Third District Disciplinary Committee consisting of James J. Burns, David Hauck, Deborah Gardner, Donna Lange, Adam Harrell and Michael E. Harman.

Respondent, Victor A. Motley appeared in person without counsel. Harry M. Hirsch, Esquire, Senior Assistant Bar Counsel, appeared as counsel for the Virginia State Bar.

Pursuant to Part 6, § IV, ¶ 13(B)(7) of the Rules of the Supreme Court, the Third District Committee of the Virginia State Bar hereby serves upon the Respondent the following dismissal with terms:

I. FINDINGS OF FACT

1. At all times relevant hereto the Respondent, Victor Alan Motley [Motley], has been an attorney licensed to practice law in the Commonwealth of Virginia.

2. Gwendolyn B. Smith, mother of the Complainant, died testate on May 5, 1990. On or about May 18, 1990, Motley qualified as executor of the estate of Gwendolyn B. Smith [estate]. Motley also served as a trustee under a provision of Smith's will which purportedly created a trust in which the Complainant, Ronald Burton [Burton] was the beneficiary.

3. Motley invested the corpus of Burton's trust in a bank certificate of deposit from which Motley received monthly interest checks. Upon receiving such interest checks Motley endorsed said checks to Burton; Motley did not deposit said checks in his trust account.

4. Motley did not prepare and/or file any accountings of the income and disbursements of the said trust.

II. NATURE OF MISCONDUCT

Upon consideration of the testimony and the exhibits presented at the hearing, the Committee determined that the conduct described in Paragraphs 1 through 4 above constituted violations of Disciplinary Rules:

DR 9-102. Preserving Identity of Funds and Property of a Client.

(B) A lawyer shall:

(3) Maintain complete records of all funds, securities, and other properties of a client coming into the possession of the lawyer and render appropriate accounts to his client regarding them.

DR 9-103. Record Keeping Requirements.

(B) Required Trust Accounting Procedures: The following minimum trust accounting procedures are applicable to all trust accounts maintained by attorneys practicing in Virginia.

(2) Deposits: All receipts of trust money shall be deposited intact and a retained duplicate deposit slip or other such record shall be sufficiently detailed to show the identity of each item.

III. DECISION AS TO DISPOSITION


Following the finding described above, the Committee inquired as to the prior disciplinary record of the Respondent and was informed that the Respondent had a prior dismissal on terms in the matter of Virginia State Bar v. Victor A. Motley, VSB Docket No. 86-146 and in connection therewith, the Committee reviewed the July 3, 1986, letter of Christopher A. Meyer of the Third District Committee, and Respondent had a prior Private Reprimand with Terms in the matter of Victor A. Motley, VSB

Docket No. 89-031-0495, and in connection therewith, the Committee reviewed the District Committee Determination.

Upon consideration of the evidence and the prior disciplinary record of the Respondent it is the decision of the Committee to offer the Respondent an opportunity to comply with certain terms and conditions, compliance with which will be a predicate for the disposition of a dismissal with terms of this complaint. To wit, the Respondent shall within one year attend and satisfactorily complete four (4) hours of continuing legal education seminars in the field of estate and trust administration, four (4) hours in the field of drafting of wills and trust instruments, and within thirty (30) days Respondent shall read the Disciplinary Rules and so certify to the Virginia State Bar. The aforesaid CLE hours are in addition to the mandatory CLE requirements of the Virginia State Bar. In the event the Respondent fails to comply with the aforesaid terms, the alternative disposition is a public reprimand.

THIRD DISTRICT COMMITTEE
OF THE VIRGINIA STATE BAR

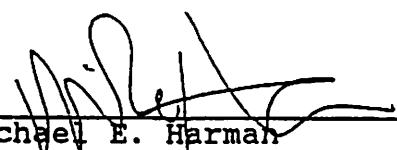
By:



Michael E. Harman
Chairman

C E R T I F I C A T E

I hereby certify that a true copy of the foregoing District Committee Reprimand (Dismissal with Terms) was mailed by Certified Mail, Return Receipt Requested this 28 day of May, 1992, to Victor A. Motley, Esquire, P. O. Box 25786, Richmond, Virginia, 23260, and to Harry Hirsch, Esquire, Virginia State Bar, 801 E. Main Street, Ross Building, Suite 1000, Richmond, Virginia, 23219.



Michael E. Harman
Chairman



Virginia State Bar

Tenth Floor, Ross Building, 801 East Main Street
Richmond, Virginia 23219
(804) 786-2061

Voice/Telecommunications Device for the Deaf: (804) 786-5966

June 11, 1991

PERSONAL AND CONFIDENTIAL

Susan C. Armstrong, Chair
Third District Committee - Section I
P. O. Box 1122
Richmond, Virginia 23208

Re: In the Matter of Victor Alan Motley
VSB Docket Number 91-031-0795

Dear Ms. Armstrong:

Enclosed you will find a complaint against the above-mentioned lawyer. Pursuant to the Rules of the Virginia Supreme Court, Part 6, Section IV, Paragraph 13(B)(5), I recommend that our office continue with this investigation. If, for any reason, you disagree with this recommendation, please notify me within five working days.

Thank you very much for your attention to this matter. Please do not hesitate to contact me if you have any questions.

Very truly yours,

A handwritten signature in dark ink, appearing to read "H. M. Hirsch", written over a horizontal line.

Harry M. Hirsch
Senior Assistant Bar Counsel

HMH/ge

Enclosure

cc: Michael E. Harman, Secretary
Enclosure - Virginia State Bar Tracking Form
Clerk of the Disciplinary System



Virginia State Bar

Tenth Floor, Ross Building, 801 East Main Street
Richmond, Virginia 23219
(804) 786-2061

Voice/Telecommunications Device for the Deaf: (804) 786-5966

June 11, 1991

PERSONAL AND CONFIDENTIAL

Victor A. Motley, Esquire
P. O. Box 25786
Richmond, Virginia - 23260-5786

Re: In the Matter of Victor Alan Motley
VSB Docket Number 91-031-0795

Dear Mr. Motley:

The above-referenced complaint has been referred to the Third District Committee, Section I for a more detailed investigation. A Virginia State Bar investigator will be in contact with you if necessary to conclude the investigation.

At the conclusion of the investigation, you will be advised of the committee's findings and decision.

Thank you for your continued interest and cooperation in this matter.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Harry M. Hirsch".

Harry M. Hirsch
Senior Assistant Bar Counsel

HMH/ge

cc: Susan C. Armstrong, Committee Chair

LAW OFFICES
HARMAN, CLAYTOR, CORRIGAN & WELLMAN
A PROFESSIONAL CORPORATION

P.O. Box 70280
RICHMOND, VIRGINIA 23255
(804) 747-5200
TELECOPIER (804) 747-6085

OFFICES LOCATED AT
INNSBROOK CORPORATE CENTER
4401 WATERFRONT DRIVE, SUITE 200
GLEN ALLEN, VIRGINIA 23060

MICHAEL E. HARMAN
JOHN M. CLAYTOR
DAVID P. CORRIGAN
STANLEY P. WELLMAN
MARTHA M. PARRISH

May 8, 1992

Mrs. Patricia Rios, Clerk
Disciplinary System
Virginia State Bar
707 E. Main Street, Suite 1500
Richmond, Virginia 23219-2803

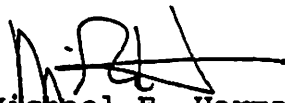
Re: In the Matter of Victor A. Motley
VSB Docket No.: 91-031-0795

Dear Mrs. Rios:

I enclose District Committee Determination (Dismissal with Terms) in the above referenced matter which should replace the previously filed District Committee Determination (Private Reprimand with Terms). By copy of this letter to Mr. Motley, I am providing him with a copy also.

Please let me now if you have any questions.

Very truly yours,


Michael E. Harman

MEH:djs

Enclosures

cc: Victor A. Motley, Esquire
Harry M. Hirsch, Esquire
(w/enclosures)

RECEIVED

11 1992

CLERK'S OFFICE

Victor A. Smith, deceased under the will of 1774
Gregory E. Smith, deceased

From May 16, 1930 to September 27, 1931

OFFICE OF COMMISSIONER OF ACCOUNTS

To the Circuit Court of the City of Richmond,
John Marshall Court Building, 800 East Marshall Street:

A statement of all the money which the fiduciary received or became chargeable with and disbursed during the period stated in the caption has been exhibited before me.

I examined the fiduciary in the list of fiduciaries whose accounts were before me for settlement, which was posted in the front door of the Courthouse of the Circuit Court of the City of Richmond, John Marshall Court Building, on January 6, 1932, that being the first Monday in said month, and on the day of this report, more than ten days having elapsed since such posting, I settled and approved the following account, which is sustained by proper vouchers.

The fund of the fiduciary without _____

money is the money of _____ is sufficient.

Richmond, Virginia
January 4, 1932

Respectfully,
Richard W. Wolfe
Commissioner of Accounts

Deputy Commissioner of Accounts

Filed in the Clerk's office JAN 17 1932, 19 ____, and fee paid.

Lucretia P. Purdy, Clerk

I hereby certify that no exceptions were filed to the foregoing report within the period of fifteen days after the day on which it was filed in the Clerk's office.

FEB 3 1932, 19 ____, *Lucretia P. Purdy*, Clerk

	Disbursed	Received
Signet Bank - balance on deposit in account		\$ 411.98
Bank of Virginia - balance on deposit in account		2,472.52
Bank of America & Trust - C.D. - received from estate of Charles B. Smith during his lifetime		37,148.21
Bank of America & Trust - interest on C.D.		1,070.58
Qualified, distribution of interest from C.D. made to Ronald Burton (Will 2-B-1)	535.29	
7/21/90 To: Charles Burton - interest from C.D. (Will 2-E)	535.29	
7/23/90 To: Signet Bank - Refund to Bank - Checks returned after account closed	86.00	
11/26/90 Richmond Memorial Hospital - Decedent's Medical Bill	252.50	
12/15/90 Hess Dept. Store - Balance due on Decedent's account	74.60	
12/15/90 News Thomas - Newspaper Ad of decedent's obituary	57.60	
12/15/90 City of Richmond - Personal Property Tax	178.75	
12/15/90 Radiologist, Inc. - Decedent's Medical Bill	240.85	
12/15/90 Bell Atlantic Stock - sale of 28 shares to Bell Atlantic		1,288.23
12/15/90 Bell Atlantic Stock Dividend		16.52
12/15/90 W.S. Watkins Funeral Home	3,601.46	
12/15/90 C&P Credit Union - Balance on deposit in account		2,383.98
12/15/90 Commissioner of Accounts, McDonald	20.00	
12/15/90 McDonald - Fee for approving inventory		
12/15/90 Commissioner of Accounts - McDonald Wellford - Fee for approving accounting	110.00	
12/15/90 To: Charles Burton (Will 2-E)	17,211.32	
12/15/90 To: Elaine Cary, Trustee for Ronald Burton (Will 2-B-1)-qualified on 9/27/91 in the Circuit Court of the City of Richmond, John Marshall Court Building	17,211.32	
12/15/91 To: Cedar Street Baptist Church (Will 2-A)	1,021.17	
12/15/91 To: Samuel Smith - (Will 2-B)	1,109.78	
12/15/91 Victor A. Motley - Executor's Commission	2,439.61	

10/17/91 Walter A. Motley - Reimbursement for
Qualification Fee of Executor

100.83

11/15/91 Walter A. Motley - Reimbursement for
Stock - Mailed Bell Atlantic Stock to
Bell Atlantic

5.76

12/28/91 To: Cheryl Burton - 1987 Chevrolet
Cavalier (Will 2-C)

4,000.00

4,000.00

All items of personal property were given
prior to the death of decedent (Will 2-D)

48,792.15

48,792.15

Charles A. Burton
Charles Burton

Conrad Burton
Conrad Burton

James H. Burton
James H. Burton

Benjamin Robertson
Pastor for Cedar Street
Baptist Church

Cheryl Burton
Cheryl Burton

Evidence was exhibited to the Commissioner of Account
of the prepaid memorial costs to Forest Lawn Cemetery
of \$942.00 by the decedent before her death.

First and Final Account

REC'D UNIT BOOK

of

• 202

Maline J. Carey, Trustee under the will of Geraldyn

331

B. Smith, deceased

From September 27, 1991 to November 25, 1992

OFFICE OF COMMISSIONER OF ACCOUNTS

To the Circuit Court of the City of Richmond,
John Marshall Courts Building, 800 East Marshall Street:

A statement of all the money which the fiduciary received or became chargeable with and disbursed during the period stated in the caption has been exhibited before me.

I included the fiduciary in the list of fiduciaries whose accounts were before me for settlement, which was posted at the front door of the Courthouse of the Circuit Court of the City of Richmond, John Marshall Courts Building, on October 4, 1993, that being the first Monday in said month, and on the day of this report, more than ten days having elapsed since such posting, I settled and completed the following account, which is sustained by proper vouchers.

The bond of the fiduciary without _____

surety, in the penalty of \$ _____ is sufficient.

Respectfully,

Richmond, Virginia

Commissioner of Accounts

June 16, 1995

Richard M. Smith

Filed in the Clerk's office JUN 23 1995

19____, and cc: 3844

David M. Davis

Clerk

I hereby certify that no exceptions were filed to the foregoing report within the period of fifteen days after the day on which it was filed in the Clerk's office.

JUL 10 1995

19____

David M. Davis

Clerk

ESTATE OF GWENDOLYN SMITH, DECEASED f/b/c Ronald Burton
September 27, 1991, to November, 1992

Date		Disbursed	Received
1991			
Sept. 27	By Consolidated Bank Trust Co., Richmond, Va - transfer of CD certificate from Executor, Victor Motley to Trustee Elaine J. Carey, f/b/c Ronald Burton	\$	\$17,250.25
1992			332
May 22	To Ronald Burton, son - fee for emergency relocation	1,000.00	
	Penalty fee charged by Consolidated Bank Trust Co.	254.44	
July 15	To Ronald Burton, son - transfer funds to his Crestar Bank account # 807100439	5,914.70	
	Penalty fee charged by Consolidated Bank Trust Co.	129.43	
Aug. 26	To Ronald Burton, son - transfer funds to his Crestar Bank account # 886166330	8,840.57	
Nov. 25	To Ronald Burton, son - final payment disbursed as cash	1,081.11	
		<u>\$17,250.25</u>	<u>\$17,250.25</u>

Submitted by Elaine J. Carey, Executor of the Estate of Gwendolyn Smith, Deceased

Elaine J. Carey
Elaine J. Carey

State of Virginia
County of Henrico, to-wit:

The foregoing document was acknowledged before me this 29th day of September, 1993, by Elaine J. Carey, Executor of the Estate of Gwendolyn Smith, deceased.

My commission expires: 11-30-94

Paula S. McPherson

