

**VIRGINIA:**

**BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD**

**IN THE MATTER OF  
ROBERT OVERBEY, JR.**

**VSB DOCKET NO. 22-053-124308**

**AGREED DISPOSITION MEMORANDUM ORDER  
PUBLIC REPRIMAND WITH A TERM**

On Friday, January 13, 2023 this matter was heard, telephonically, by the Virginia State Bar Disciplinary Board upon the joint request of the parties for the Board to accept the Agreed Disposition signed by the parties and offered to the Board as provided by Part 6, Section IV, Paragraph 13-6.H of the Rules of the Supreme Court of Virginia. The panel consisted of David J. Gogal, Second Vice Chair; Sandra Havrilak, Melissa Robinson, Lisa Wilson and Elisabeth Martingayle, Laymember. The Virginia State Bar was represented by Patricia O'Boyle, Assistant Bar Counsel. Robert Overbey, Jr. was present and was not represented by counsel.. The Chair polled the members of the Board as to whether any of them were aware of any personal or financial interest or bias which would preclude any of them from fairly hearing the matter to which each member responded in the negative. Court Reporter, Jennifer Hartfield, Chandler and Halasz, P.O. Box 9349, Richmond, Virginia 23227, telephone (804) 730-1222, after being duly sworn, reported the hearing and transcribed the proceedings.

**WHEREFORE**, upon consideration of the Agreed Disposition, the Certification, Respondent's Disciplinary Record, the arguments of the parties, and after due deliberation,

It is **ORDERED** that the Disciplinary Board accepts the Agreed Disposition and the Respondent shall receive a Public Reprimand with a Term, as set forth in the Agreed Disposition, which is attached and incorporated in this Memorandum Order.

It is further **ORDERED** that the sanction is effective January 13, 2023.

It is further **ORDERED** that:

The Clerk of the Disciplinary System shall assess costs pursuant to Part 6, Section IV, Paragraph 13-9.E of the Rules.

It is further **ORDERED** that an attested copy of this Order be mailed to the Respondent, Robert Overbey, Jr., by electronic, regular first-class and certified mail, return receipt requested, at his last address of record with the Virginia State Bar at 9412 Pattys Court, Lorton, VA 22079, and a copy by electronic mail to, Patricia O'Boyle, Assistant Bar Counsel.

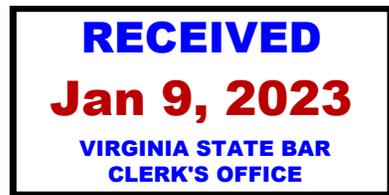
Enter this Order this 13th day of January, 2023,

VIRGINIA STATE BAR DISCIPLINARY BOARD



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David J. Gogal  
Second Vice Chair



VIRGINIA:

BEFORE THE DISCIPLINARY BOARD  
OF THE VIRGINIA STATE BAR

IN THE MATTER OF  
ROBERT OVERBEY, JR.

VSJ Docket No. 22-053-124308

AGREED DISPOSITION  
(PUBLIC REPRIMAND WITH A TERM)

Pursuant to the Rules of the Supreme Court of Virginia, Part 6, Section IV, Paragraph 13-6.H, the Virginia State Bar, by Patricia H. O'Boyle, Assistant Bar Counsel and Robert Overbey, Jr., Respondent, *pro se*, hereby enter into the following Agreed Disposition arising out of the referenced matter.

I. STIPULATIONS OF FACT

1. Respondent is a member of the District of Columbia Bar but is not admitted to practice law in the Commonwealth of Virginia.
2. On October 20, 2021, Respondent appeared in Fairfax County General District Court to assist Diego Robinson ("Robinson"), the son of a close friend of Respondent's who had a summons for reckless driving on the docket that day.
3. While waiting for Robinson to arrive, Respondent filled out an Appearance of Counsel form by printing his name and contact information under the section reserved for counsel. Respondent did not sign this document and left the line for the attorney's Virginia State Bar number blank.
4. Respondent approached and told a Fairfax County Assistant Commonwealth's Attorney that Robinson was running late. The prosecutor asked if Respondent was an attorney and he said that he was. Respondent did not tell the prosecutor that he was not licensed to practice law in the Commonwealth of Virginia.
5. Respondent then talked to the police officer who issued the summons to Robinson and showed the officer proof that Robinson had taken a driver improvement class. Another prosecutor asked the officer if he opposed a reduced charge of speeding before handing Respondent a document called "Trial Advisement and Plea." This form is referred to as a "blue sheet" in Fairfax County. That prosecutor partially filled out the blue sheet, which recommended that Robinson receive a fine of \$100 for speeding and gave it to Respondent.

6. When Robinson arrived, the court was empty. Respondent gave Robinson the blue sheet and advised him to go to the clerk's office and pay the fine. Robinson, however, did not go to the clerk's office and a show cause was later issued for his failure to appear in court earlier that morning.
7. Respondent learned about the show cause from Robinson's mother, who told Respondent that the next court date was November 16, 2021.
8. On November 16, 2021, Respondent again went to the Fairfax County General District Court to represent Robinson. Robinson arrived on time and brought the blue sheet that he received from Respondent on October 20, 2021. William H. Miller, ("Complainant") was the Assistant Commonwealth's Attorney covering court that day.
9. Respondent approached the Complainant and handed him the blue sheet, which memorialized the agreement Respondent negotiated with the first prosecutor. Complainant reviewed the sheet, gave it back to Respondent, and asked Respondent to sign the document and enter his Virginia State Bar number.
10. Respondent signed the blue sheet, entered his District of Columbia bar number, and told Complainant that he was not licensed to practice law in Virginia. Complainant told Respondent "that's a problem" and placed the blue sheet on the prosecutors' table in the courtroom before leaving the courtroom to attend to other cases.
11. Shortly thereafter, Complainant returned to the courtroom and saw Respondent and Robinson at the bench engaged in a dialogue with the judge. At that time, the judge was holding the blue sheet.
12. Complainant approached the bench and told the judge that Respondent was not licensed to practice law in Virginia. The judge vacated the plea and continued Robinson's matter to December 16, 2021, when Robinson's case was concluded without any assistance from Respondent.
13. Respondent's name was listed as Robinson's defense attorney on the Virginia Courts Online Information website. Respondent's name was also hand-written on the front and back of Robinson's original Virginia Uniform Summons before it was crossed out on November 16, 2021.
14. Complainant told the VSB investigator he had no doubt that Respondent was representing Robinson.
15. Respondent admitted to the VSB investigator that he advised Robinson to take a driver's improvement class before going to court. He also admitted that, on October 20, 2021, he told the prosecutor that he was an attorney and that she could have reasonably believed he was acting as Robinson's attorney. Respondent said that he filled out the Appearance of Counsel form and thought he could represent Robinson and help him "resolve" a minor traffic offense. He said he wanted "to help the kid out" and thought he could quickly get "in and out of the case."

16. On November 16, 2021, Respondent said the judge called Robinson's case while the Complainant was out of the courtroom. Respondent denied handing the blue sheet to the judge and told the VSB investigator that he does not know who gave the blue sheet to the judge. Respondent said he was telling the judge why Robinson did not appear on October 20, 2021, when Complainant approached the bench and told the court that Respondent wasn't licensed to practice law in Virginia.
17. Respondent told the VSB investigator that he appeared at the bench with Robinson because he did not want to "abandon him" at that point. Respondent said he made a mistake, that he was trying to help a friend, and that he did not charge Robinson a fee.

## II. NATURE OF MISCONDUCT

Respondent is subject to the disciplinary authority of the Virginia State Bar under the following provisions of the Rules of the Virginia Rules of Professional Conduct:

### **RULE 8.5     Disciplinary Authority; Choice Of Law**

(a) Disciplinary Authority. A lawyer admitted to practice in this jurisdiction is subject to the disciplinary authority of Virginia, regardless of where the lawyer's conduct occurs. A lawyer not admitted in Virginia is also subject to the disciplinary authority of Virginia if the lawyer provides, holds himself out as providing, or offers to provide legal services in Virginia. By doing so, such lawyer consents to the appointment of the Clerk of the Supreme Court of Virginia as his or her agent for purposes of notices of any disciplinary action by the Virginia State Bar. A lawyer may be subject for the same conduct to the disciplinary authority of Virginia and any other jurisdiction where the lawyer is admitted.

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

### **RULE 5.5     Unauthorized Practice Of Law; Multijurisdictional Practice of Law**

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(c) A lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction or assist another in doing so.

### **RULE 5.5     Unauthorized Practice Of Law; Multijurisdictional Practice of Law**

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(d) Foreign Lawyers:

(1) "Foreign Lawyer" is a person authorized to practice law by the duly constituted and authorized governmental body of any State or Territory of the United

States or the District of Columbia, or a foreign nation, but is neither licensed by the Supreme Court of Virginia or authorized under its rules to practice law generally in the Commonwealth of Virginia, nor disbarred or suspended from practice in any jurisdiction.

(2) A Foreign Lawyer shall not, except as authorized by these Rules or other law:

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(ii) hold out to the public or otherwise represent that the Foreign Lawyer is admitted to practice law in Virginia.

**RULE 5.5 Unauthorized Practice Of Law; Multijurisdictional Practice of Law**

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(d) Foreign Lawyers:

(1) "Foreign Lawyer" is a person authorized to practice law by the duly constituted and authorized governmental body of any State or Territory of the United States or the District of Columbia, or a foreign nation, but is neither licensed by the Supreme Court of Virginia or authorized under its rules to practice law generally in the Commonwealth of Virginia, nor disbarred or suspended from practice in any jurisdiction.

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(3) A Foreign Lawyer shall inform the client and interested third parties in writing:

- (i) that the lawyer is not admitted to practice law in Virginia
- (ii) the jurisdiction(s) in which the lawyer is licensed to practice; and
- (iii) the lawyer's office address in the foreign jurisdiction.

**RULE 8.4 Misconduct**

It is professional misconduct for a lawyer to:

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(b) commit a criminal or deliberately wrongful act that reflects adversely on the lawyer's honesty, trustworthiness or fitness to practice law;

**RULE 8.4 Misconduct**

It is professional misconduct for a lawyer to:

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(c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation which reflects adversely on the lawyer's fitness to practice law;

### III. PROPOSED DISPOSITION

Accordingly, Assistant Bar Counsel and Respondent tender to the Disciplinary Board for its approval the agreed disposition of Public Reprimand with a Term as representing an appropriate sanction if this matter were to be heard through an evidentiary hearing by a panel of the Disciplinary Board. The term shall be as follows:

For a period of two years following the entry of this Order, Respondent shall not engage in any conduct that violates Rule 5.5 of the Virginia Rules of Professional Conduct, including any amendments thereto, and/or which violates any analogous provisions, and any amendments thereto, of the disciplinary rules of another jurisdiction in which Respondent may be admitted to practice law. The term contained in this paragraph shall be deemed to have been violated when any ruling, determination, judgment, order, or decree has been issued against Respondent by a disciplinary tribunal in Virginia or elsewhere, containing a finding that Respondent has violated one or more provisions of the Rule of Professional Conduct referred to above, *provided, however*, that the conduct upon which such finding was based occurred within the period referred to above, and provided, further, that such ruling has become final.

Upon satisfactory proof that such terms and conditions have been met, this matter shall be closed. If, however, all the terms and conditions are not met by the deadlines imposed above, the Respondent agrees that the Disciplinary Board shall impose an alternative disposition of the REVOCATION of his privilege to practice law in the Commonwealth of Virginia pursuant to Rules of Court, Part Six, Section IV, Paragraph 13-18.O. Such revocation, as defined in Part Six, Section IV, Paragraph 13-1 of the Rules of Court, includes the exclusion from the admission to, or the exercise of any privilege to, practice law in Virginia.

Assistant Bar Counsel and Respondent agree that the effective date for the sanction shall be the date of entry of the Disciplinary Board Order approving this Agreed Disposition.

If the Agreed Disposition is approved, the Clerk of the Disciplinary System shall assess costs pursuant to Part Six, Section IV, ¶ 13-9.E of the Rules of the Supreme Court of Virginia.

Pursuant to Part Six, Section IV, ¶ 13-30.B of the Rules of the Supreme Court of Virginia, Respondent's prior disciplinary record shall be furnished to the Disciplinary Board panel considering this Agreed Disposition.

THE VIRGINIA STATE BAR

By: *Patricia H. O'Boyle*  
Patricia H. O'Boyle  
Assistant Bar Counsel

*Robert Overbey, Jr.* 1-9-2023  
Robert Overbey, Jr.  
Respondent