

**BEFORE THE LAWYER DISCIPLINARY BOARD
STATE OF WEST VIRGINIA**

SCA EFiled: Apr 19 2024
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Transaction ID 72793107

In re: Benjamin Freeman, member #8875

Cases Nos. 22-05-312, et al.

RESPONSES TO STATEMENT OF CHARGES

Comes now Benjamin Freeman with Responses to the Statement of Charges in the above-styled matters. As such, I state the following:

1. Attached please find responses to said charges.
2. I am a solo practitioner without a staff.
3. My practice consists mostly of court-appointed abuse and neglect and criminal cases (90%-95%).
4. My remaining cases are small criminal cases and a very limited number of family law cases in which clients don't qualify for court-appointed cases.
5. I struggled in the aftermath of the limitations imposed by Covid restrictions which eliminated my ability to hire support staff.
6. Having scrambled to get on top of my practice, I am now in a better position than I was previously.
7. These Responses may be supplemented as required or upon new information.

RESPONSES TO COMPLAINTS FROM GARLAND MURRAY

1. I have spoken to Mr. Murray several times on the phone.
2. I have relayed several messages to/from Mr. Murray, regarding non-attorney/client matters, through his partner, as authorized by Mr. Murray.
3. He has relayed several messages through his spouse to which I have responded.
4. I have filed Motions to extend deadlines to file an amended petition. (See attached).
5. I had some delay with Mount Olive Correctional Center in scheduling an in-person meeting with Mr. Murray, but has several meetings with him at Mount Olive CC.
6. I have been working on Mr. Murray's amended petition and we have had several discussions regarding what's to be filed and what is not a proper subject(s) for a habeas corpus petition.
7. Mr. Murray and I continued to disagree about which matters are irrelevant to his Petition for Writ of Habeas Corpus, which has caused additional delays in filing his Amended Petition.
8. Related to these disagreements, I had difficulty communicating the meaning and nature of the Losh List to be filed in habeas corpus cases, especially what exactly would still be relevant to his current petition given the fact that a prior petition for writ of habeas corpus had been denied.
9. I have assisted Mr. Murray with related matters, including investigating the failure to perfect his prior appeal and prior filed habeas corpus petitions (I was not his counsel for these matters).

10. I filed additional motions on Mr. Murray's behalf regarding his Petition for Writ of Habeas Corpus communicating the difficulties which I have encountered with the matter.
11. Mr. Young's amended petition for writ of habeas corpus is ripe for filing and having the Court consider the matter, with the limitations and difficulties described above.

RESPONSE TO COMPLAINTS FROM MARCUS YOUNG

1. I attempted to contact Mr. Young by mail. I am unaware whether he actually received said letters.
2. Again, I was not at my office very often due to my demanding court schedule and if he attempted to contact me by phone I would not have been available on numerous occasions. Also, his calls may or may not have been diverted by a spam-call blocker (since removed); I am still without an assistant.
3. I continued to work on Mr. Young's habeas corpus petition; gathering documents took an extensive amount of time, including locating certain transcripts; the Circuit Court was been flexible and understanding regarding this issue.
4. Mr. Young's incarceration status was not likely to have been affected by said delays.
5. My schedule has been very demanding lately, and I have had multiple appeals and multiple habeas corpus petitions that I have been working on completing.
6. The number of cases that the Courts have appointed me to dramatically increased during the past 1-2+ years.
7. Mr. Young's habeas petition was delayed further by issues related to the Losh list required to be filed in habeas cases.
8. I visited Mr. Young at MOCC on several occasions.
9. Mr. Young's amended habeas corpus petition has been filed with the Circuit Court and is awaiting further proceedings in the matter.

REPSONSES REGARDING APPEAL 23-400

Comes now the Benjamin Freeman with an answer to the complaint in the above case.

I assert and aver that:

1. I was appointed as substitute counsel for the appealing respondent parent in the above case after the proceedings in Circuit Court.
2. Initially, I was unaware that I had been appointed due confusion regarding receiving the Circuit Court Order.
3. Upon contacting prior counsel, I was informed that she did not have a file in the case to give me and that she did not have contact information for the client; I was only able to piece together the case through part of the Court record and speaking to other attorneys on the case. However, I still am in the process of obtaining certain other transcripts and documents in this matter.
4. I worked to complete an appeal brief as best as I possibly could given the said difficulties, but was never able to contact the client or complete a full and proper document.
5. There has been a hearing before the Supreme Court at which I explained the situation.
6. I have found great difficulties being appointed to abuse and neglect cases after the Circuit Court case has ended and while its lingering between Courts. Documents and files are not as readily available from various sources as they need to be.
7. I moved to be relieved as counsel given the above-listed difficulties and the Court granted the said motion.

RESPONSE REGARDING APPEAL 23-606

Comes now the Benjamin Freeman with an answer to the complaint in the above case.

I assert and aver that:

1. I was appointed as substitute Guardian Ad Litem in the above case after the proceedings in Circuit Court.
2. Initially, I was unaware that I had been appointed due confusion regarding receiving the Circuit Court Order.
3. I was unable to contact the prior GAL or get a file from her; I was only able to piece together the case through part of the Court record and speaking to other attorneys on the case.
4. There has been a hearing before the Supreme Court at which I explained the situation.
5. I have found great difficulties being appointed to abuse and neglect cases after the Circuit Court case has ended and while its lingering between Courts. Documents and files are not as readily available from various sources as they need to be.
6. All necessary filings and responses have been submitted in this matter and is pending consideration by the Court.

RESPONSE REGARDING OTHER APPEAL DELAYS

1. I reiterate that my schedule was extremely demanding with an increase in appointed abuse and neglect cases and appeals during the past 1-2 years.
2. Compiling documents, including orders, transcripts, etc., was very time consuming and resulted in delays in completing petitions.
3. I experienced an unusual number of cases to appeal in the 2022 and 2023.
4. The number of appeals has dropped since this time.
5. My schedule also has relented in the past several weeks and I believe that I will be current all obligations going forward.
6. Currently, I have no cases in which an appeal is expected and have no pending petitions to file with the Supreme Court.
7. All necessary filings and responses have been submitted in these matter and are pending consideration by the Court and/or have been adjudicated.

RESPONSE REGARDING MARJORIE ALLISON/IOLTA

1. I completed a petition related to her case.
2. I could not find a proper service address to serve the proposed respondent in the matter.
3. I related these issues to Ms. Allison and we communicated several times about it.
4. After some time, the attorney-client relationship broke down.
5. Although I had completed a substantial amount of work in her case, I agreed to refund her fees paid to me in the matter as a matter of business good will.
6. I attempted to re-pay her on a prior occasion(s) but she did not cash a check from me.
7. I typically charge far less than other attorneys in the area for private criminal and family law matters, so I considered her initial payment to be a maximum fee. I rarely to never charge my private pay clients more than an initial payment.
8. For most clients I charge them after I have done most or all of the legal work on their cases.
9. I do not engage in cases in which I "hold" money for clients.
10. As such, I was unaware that my IOLTA account had been closed because there was no money in the account or recent activity, and I had not had clients for whom I had unpaid/unused retainers in 2+ years.
11. I believe that I have rectified the situation with my IOLTA account.
12. I fully intend to refund Ms. Allison her payment to me without taking any money for work already completed.

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read "Benjamin Freeman", with a long horizontal stroke extending to the right.

Benjamin Freeman (WV State Bar #8875)

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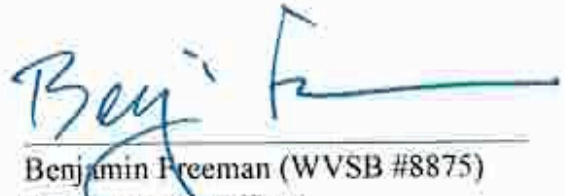
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CERTIFICATE OF SERVICE

I, Benjamin Freeman, certify that I have served a copy of the foregoing Responses to Statement of Charges to the Office of Disciplinary Counsel by electronic filing on April 19, 2024.

A handwritten signature in blue ink, appearing to read "Ben Freeman", is written over a horizontal line.

Benjamin Freeman (WVSB #8875)
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