In the Matter of Braziel, 2018 WL 934682 (2018)

The supreme court rejected a petition for voluntary discipline even though the State Bar supported it. The lawyer’s office had fabricated a lien letter that purportedly concerned the lawyer’s client and then presented the fabricated letter to an insurance company. The lawyer explained the sequence of events that led to the creation and presentation of the letter as a violation of Georgia Rule of Professional Conduct 5.3. She admitted facts that, if true, would reflect a failure of her as a supervisory lawyer to make reasonable efforts to ensure that the actions of her nonlawyer assistants were consistent with her ethical obligations. The court rejected the petition and noted that this version of the facts differed from what the grievance alleged. The court noted the possibility that the lawyer may have violated Rule 8.4 (presumably 8.4(a)(4), which prohibits professional conduct involving dishonesty, fraud, deceit or misrepresentation). The court also noted that the voluntary petition admitted to a violation of Rule 7.5, despite the fact that the underlying events, as recited by the lawyer, did not support a violation of that rule.

In the Matter of Smart, 2018 WL 934681 (2018)

The supreme court imposed a Review Panel reprimand on an attorney who defaulted in the disciplinary proceeding. By his default, the lawyer admitted that he undertook to represent a client in an administrative proceeding but missed the deadline for filing his witness list. Although the hearing officer nevertheless expressed interest in hearing the testimony of the lawyer’s client, the lawyer told the client not to appear at the hearing because the lawyer intended to file a voluntary dismissal. The lawyer missed that deadline as well, and the hearing officer dismissed the matter with prejudice. The supreme court found in aggravation that the lawyer had substantial experience in the practice of law and that he had a selfish motive when he failed to inform the client that the hearing officer wanted to hear the client’s testimony despite the lawyer’s failure to file the witness list on time.

In the Matter of Mays, 2018 WL 934683 (2018)

The supreme court disbarred an attorney who defaulted in the disciplinary proceeding and thereby admitted that she had willfully abandoned a client in a bankruptcy matter, failed to communicate with the client about the matter, and failed to return the unearned portion of her fee.
In the Matter of Smith, 2018 WL 700898 (2018)

The supreme court accepted the voluntary surrender of the license of a lawyer who had pled guilty in federal court to conspiracy to commit bribery.


A trial court denied a motion for out-of-time appeal based upon alleged ineffective assistance of counsel. On appeal from the denial of that motion, the court of appeals vacated the denial and remanded the case because the lawyer who represented the appellant at the hearing on the motion for out of time appeal (Tarleton) should have been disqualified from representing the appellant in connection with that motion.

Tarleton was a lawyer in the Appellate Division of the Georgia Public Defender Standards Council (GPDC). Another lawyer for the GPDC (Clark) had claimed in the motion for out of time appeal that the notice of appeal for the appellant was not timely filed because Clark and/or his staff had failed to ensure that it was filed on time and that this failure constituted ineffective assistance of counsel. Clark, however, had a conflict of interest in the assertion of his own ineffectiveness, and this conflict should have been imputed to Tarleton because the two lawyers were both members of the same “firm,” the Appellate Division of the GPDC. The court also noted that the version of events offered by the appellant at the hearing and the version recited in the motion by Clark differed in material ways, which raised an additional problem. Clark was therefore a necessary witness on a crucial issue but could not personally be the appellant’s advocate and a witness at the same time under Georgia Rule of Professional Conduct 3.7(a). Under Rule 3.7(b) an advocate-witness conflict ordinarily is not automatically imputed to other lawyers in a firm, but the differences between Clark’s testimony and the appellant’s testimony created a conflict under Rule 1.7 which prohibited Clark or any member of Clark’s “firm” (including Tarleton) from representing the appellant. The court also noted that Tarleton may have had a conflict of interest between his loyalty to the appellant and his loyalty to his office colleague Clark.


The supreme court approved a significant set of revisions to the rules that govern procedures in disciplinary cases. The amendments are to go into effect on July 1, 2018.