

STATE OF WEST VIRGINIA

At a Regular Term of the Supreme Court of Appeals continued and held at Charleston, Kanawha County, on the 24th day of July, 1991, the following order was made and entered:

The Committee on Legal Ethics of The West
Virginia State Bar, Complainant

vs.) No. 20226

Paul R. Goode, Jr., a member of The West
Virginia State Bar, Respondent

On a former day, to-wit, July 23, 1991, came the respondent, Paul R. Goode, Jr., by King, Betts & Allen, Robert B. King, and John J. Polak, his attorneys, and presented to the Court his motion in writing for leave to waive oral argument and submission in the above-captioned proceeding scheduled for Tuesday, the 10th day of September, 1991, for the reasons stated therein, and requests that this Court impose sanctions pursuant to the complainant's recommendation filed with this Court on the 29th day of May, 1991.

Upon consideration whereof, the Court is of opinion to and doth hereby sustain said motion. It is therefore ordered that oral argument and submission in the above-captioned proceeding be, and it hereby is, waived. It is further ordered that the respondent's license to practice law in the State of West Virginia be, and it hereby is, suspended for a period of three months effective on the 15th day of September, 1991, with automatic reinstatement after expiration of the three-month period. It is finally ordered that the respondent reimburse the

Committee on Legal Ethics in the amount of One Thousand Four
Hundred Fifteen Dollars and Nine Cents (\$1,415.09) for the
actual and necessary expenses incurred in the investigation and
hearing of this matter. Justice Neely absent.

A True Copy



Attest: _____
Clerk, Supreme Court of Appeals

BEFORE THE COMMITTEE ON LEGAL ETHIC
OF THE
WEST VIRGINIA STATE BAR

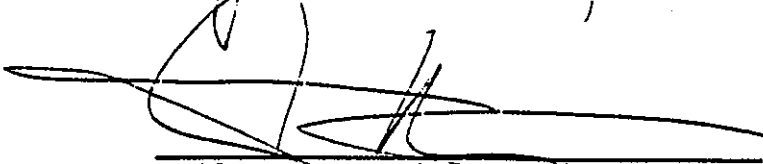
IN RE: ~~XXXXXXXXXX~~ ~~XXXXXXXXXX~~ ESQ., a member
of The West Virginia State Bar

I.D. No. 90-182

FULL HEARING PANEL FINDINGS OF FACT,
CONCLUSIONS OF LAW AND RECOMMENDATION CONCERNING DISCIPLINE

This matter came on for deliberation by the Full Hearing Panel of the Committee on Legal Ethics of The West Virginia State Bar at its meeting held on Apr. 20th, 1991 in Charleston, West Virginia. After review of the Subcommittee Report submitted by the Hearing Subcommittee which had been assigned to the hearing of this matter. After consideration of the record in the Subcommittee Report, voted Unanimous, a quorum being present, to adopt the Findings of Fact, Conclusions of Law, and Recommendation Concerning Discipline of the Subcommittee Report.

Signed this 20 day of April, 1991.


Arthur M. Recht, Chairman
Hearing Panel
Committee on Legal Ethics

BEFORE THE COMMITTEE ON LEGAL ETHICS OF THE
WEST VIRGINIA STATE BAR

IN RE: PAUL R. GOODE, JR., a)
member of the West Virginia) I.D. No. 90-182
State Bar)

FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND RECOMMENDED DISCIPLINE

FINDINGS OF FACT

1. Paul R. Goode ("Respondent") is a licensed member of The West Virginia State Bar ("State Bar"), practicing in Wyoming County, West Virginia, and as such, is subject to the disciplinary jurisdiction of the Supreme Court of Appeals of West Virginia and its properly constituted Committee on Legal Ethics of the West Virginia State Bar.

2. Respondent is the duly elected Prosecuting Attorney for Wyoming County, West Virginia.

3. Respondent was convicted in March, 1990, in the United States District Court for the Southern District of West Virginia, of four separate misdemeanor violations of 26 U.S.C. §7203, that is, the failure to file timely federal income tax returns for the tax years 1982 through 1985.

4. On May 18, 1990, Respondent was sentenced to a term of imprisonment of one year for each violation, the terms to run consecutively. He was fined the sum of \$10,000.00.

5. The term of imprisonment was suspended, and Respondent was placed on probation for five years with certain conditions including that he file all tax returns in a timely manner, be confined in a jail-type facility for

twelve consecutive weekends, and perform community service after completion of the jail confinement.

6. The following mitigating circumstances are present herein:

(a) All of the tax returns required to be filed, have been filed and the tax paid. Much of the income in each year was subject to withholding which was timely paid. All of the tax returns in question were filed prior to the time that the criminal information was returned.

(b) Respondent Goode, in each instance with respect to the tax years involved, sought the assistance of certified public accountants, on whom he relied.

(c) Preparation of the tax returns herein involved dealing with complications and circumstances not normally found in the ordinary tax return.

(d) Respondent experienced difficulty in obtaining necessary information because:

(i) A fire had destroyed personal records;

(ii) he had suffered a theft loss by an employee of his private practice; and

(iii) certain records were in the possession of the Internal Revenue Service and were not available readily to respondent or his accountants.

(e) During most, if not all, of the time period involved herein, Respondent was involved in substantial

domestic problems which contributed to making this a very unstable time in his life.

(f) During a part of this time, Respondent has had and continues to have significant health problems which have affected his state of mind.

(g) Respondent did not secure counsel until after federal charges had been initiated, however, Respondent may not have been prosecuted on these misdemeanor charges had he secured counsel at an earlier stage of the underlying proceedings.

(h) Based upon the numerous testimonial letters, Respondent enjoys the respect and admiration of members of his community and the Bar.

7. While there are significant mitigating circumstances which tend to explain the failure to file certain federal income tax returns, the Subcommittee cannot ignore the fact that the Respondent is the chief law enforcement officer of Wyoming County and as such, must be held to higher standard. Further, the Subcommittee is without the testimony of the Respondent which might have been helpful in providing further insight in this matter.

CONCLUSIONS OF LAW

1. That the failure to timely file federal income tax returns is a misdemeanor under Title 26, U.S.C., §7203, the penalty for which includes a possible fine plus imprisonment of not more than one year.

2. That the Respondent's conviction upon a charge of failing to timely file federal income tax return for the taxable years 1982 through 1985 constitutes misconduct in violation of DR 1-102(a)(6), which provides:

"A lawyer shall not...

(6) engage in any other conduct that adversely reflects upon his fitness to practice law."

Committee on Legal Ethics v. Higinbotham, 342 S.E.2d 152 (W.Va. 1986).

3. That a conviction for the failure to timely file a federal income tax return is not a crime of moral turpitude, Committee of Legal Ethics v. Scheer, 149 W.Va. 721, 143 S.E.2d 141 (1965).

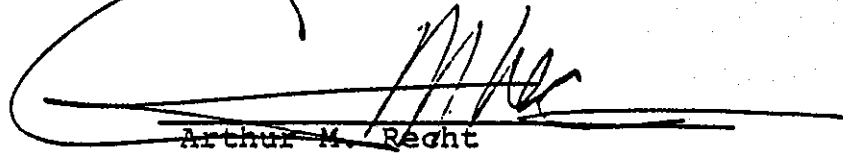
4. That while a conviction for the failure to timely file a federal income tax return may not have directly involved a violation of the official duties of Respondent, as the Prosecuting Attorney of Wyoming County, West Virginia, that official position requires a higher standard for the lawyer/public official.

RECOMMENDED DISCIPLINE

Based on the foregoing misdemeanor violations of a non-moral turpitude nature, and because of the substantial presence of mitigating circumstances, the demonstrated factual differences of this case from those present in Higinbotham, supra and Committee on Legal Ethics v. Roark, 382 S.E.2d 313 (W.Va. 1989), it is recommended that

Respondent's license to practice law be suspended for a
period of three (3) months ~~With Answer Re Statement~~
and Reopened A all costs

Respectfully Submitted,


Arthur M. Recht


Elizabeth Rose


Katharine Becker