

SEP 25 2007
OFFICE OF DISCIPLINARY COUNSEL

STATE OF WEST VIRGINIA

At a Regular Term of the Supreme Court of Appeals continued and held at Charleston, Kanawha County, on the 13th of September, 2007, the following order was made and entered:

Lawyer Disciplinary Board, Petitioner

vs.) No. 33328

David S. Hart, a member of The West Virginia State Bar, Respondent

On a former day, to-wit, July 18, 2007, came the Hearing Panel Subcommittee of the Lawyer Disciplinary Board, by Pamela D. Tarr, its chairperson, pursuant to Rule 3.10 of the Rules of Lawyer Disciplinary Procedure, and presented to the Court its written recommended disposition in this matter recommending that: (1) the respondent be reprimanded for violating Rules 1.3, 1.4(a), 1.4(b) and 8.1(b) of the Rules of Professional Conduct; (2) the respondent shall complete six hours of continuing legal education during the 2006-2008 reporting period, in addition to what he is otherwise required to complete to maintain his active license to practice, specifically in the area of ethics and/or office management; (3) In the event that the Raleigh County Circuit Court grants Mr. Rose's Motion to Appoint New Counsel to handle his habeas corpus appeal, respondent shall accept at least two pro bono appointments from Raleigh County Legal Aid Office within six months, and shall diligently pursue the matters to completion and verify acceptance and conclusion of same to the Office of Disciplinary Counsel. In the alternative, in the event that the Court denies Mr. Rose's Motion to Appoint New Counsel to handle his habeas corpus appeal, respondent shall pursue Mr. Rose's appeal rights from the circuit court's

denial of his petition for writ of habeas corpus forthwith by filing a petition for appeal and appropriate motion to proceed after expiration of time, or other appropriate procedure and shall provide Disciplinary Counsel a copy of such filings and provide a status report every thirty days until the appeal has been ruled on by the Supreme Court of Appeals of West Virginia; (4) pursuant to Rule 3.15 of the Rules of Lawyer Disciplinary Procedure, respondent shall pay the costs of this disciplinary proceeding.

Upon consideration whereof, the Court is of opinion to and doth hereby adopt the stipulated written recommended disposition of the Hearing Panel Subcommittee of the Lawyer Disciplinary Board. It is therefore ordered that: (1) the respondent be, and he hereby is, reprimanded for violating Rules 1.3, 1.4(a), 1.4(b) and 8.1(b) of the Rules of Professional Conduct; (2) the respondent shall complete six hours of continuing legal education during the 2006-2008 reporting period, in addition to what he is otherwise required to complete to maintain his active license to practice, specifically in the area of ethics and/or office management; (3) In the event that the Raleigh County Circuit Court grants Mr. Rose's Motion to Appoint New Counsel to handle his habeas corpus appeal, respondent shall accept at least two pro bono appointments from Raleigh County Legal Aid Office within six months, and shall diligently pursue the matters to completion; and verify acceptance and conclusion of same to the Office of Disciplinary Counsel. In the alternative, in the event that the Court denies Mr. Rose's Motion to Appoint New Counsel to handle his habeas corpus appeal, respondent shall pursue Mr. Rose's appeal rights from the circuit court's denial of his petition for writ of habeas corpus forthwith by filing a petition for appeal and appropriate motion to proceed after expiration of time, or other

appropriate procedure and shall provide Disciplinary Counsel a copy of such filings and provide a status report every thirty days until the appeal has been ruled on by the Supreme Court of Appeals of West Virginia; (4) pursuant to Rule 3.15 of the Rules of Lawyer Disciplinary Procedure, respondent shall pay the costs of this disciplinary proceeding. Justice Albright would issue an admonishment, rather than a reprimand and opposes any recommendation that the Respondent be ordered to accept at least two pro bono matters from Raleigh County Legal Aid, given respondent's violation of Rule 1.3, failure to act with reasonable diligence and promptness in representing his client.

Service of an attested copy of this order shall constitute sufficient notice of its contents.

A True Copy

Attest:


Clerk, Supreme Court of Appeals