

Per Curiam:

Office of Lawyer Disciplinary Counsel,
Petitioner

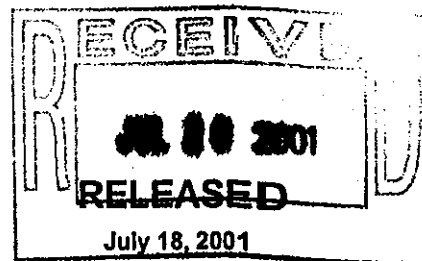
vs.) No. 29514

Kathy A.W. Arnold, an inactive member
of The West Virginia State Bar,
Respondent

FILED

July 18, 2001

RORY L. PERRY II, CLERK
SUPREME COURT OF APPEALS
OF WEST VIRGINIA



RORY L. PERRY II, CLERK
SUPREME COURT OF APPEALS
OF WEST VIRGINIA

The matter currently before the Court is an extraordinary proceeding instituted by the petitioner, Office of Lawyer Disciplinary Counsel, seeking the indefinite suspension of the license to practice law of the respondent, Kathy A.W. Arnold, pursuant to Rule 3.23 of the Rules of Lawyer Disciplinary Procedure.

On April 19, 2001, the petitioner filed a report alleging the grounds for suspension, as required by Rule 3.23(a). The petitioner's report indicates the following allegations: the existence of eight pending lawyer disciplinary complaints against the respondent; respondent's sworn statements about her mental and physical impairments, including an inability to comprehend and a loss of memory; respondent's inappropriate behavior during the taking of her sworn statement; the existence of a bankruptcy proceeding by respondent which resulted in the discharge of debts to unnamed clients in the amount of \$48,000; the

existence of criminal charges in the Magistrate Court of Roane County, West Virginia against the respondent for battery, cruelty to animals, obstructing an officer and battery on a police officer; the actions of the respondent in the Circuit Court of Roane County on September 23, 1999 which resulted in the respondent's removal to Sharpe Mental Hospital; the finding by the Circuit Court of Roane County, West Virginia in two orders, dated October 14, 1999 and October 22, 1999, that respondent was incompetent and required appointment of a guardian ad litem to protect her interests in two court cases; and the October 20, 1999 letter to the Circuit Court of Roane County from a psychologist indicating that the respondent was unstable, required further hospitalization and that the examining psychologist was unable to state when the respondent would be able to attend to her legal affairs.

On April 25, 2001, having received and reviewed petitioner's report and exhibits, the Court issued a rule to show cause, returnable on June 12, 2001, why respondent's license should not be suspended indefinitely. The Court ordered the respondent to file a brief addressing the petitioner's allegations by June 1, 2001. Respondent made no response.

Copies of the rule to show cause were sent by certified mail on April 25, 2001 to respondent at both her most recent home and post office box addresses. Neither was

claimed. On April 26, 2001, personal service was attempted with no response at the respondent's home; a copy of the order was left at the resident's home by the Court's marshall. On May 2, 2001, the order to show cause was sent again to both addresses with a generic return address.

In regard to notice, the Court notes that in the course of the disciplinary proceedings, the respondent provided a sworn statement to the Office of Disciplinary Counsel pursuant to subpoena on December 23, 1997. In addition, the respondent was personally served with the Statement of Charges on September 18, 1999 after multiple attempts at service. The Court has previously recognized that indefinite suspension may be appropriate where a respondent has refused to take advantage of the opportunity to be heard. *See Lawyer Disciplinary Counsel v. Butcher*, 197 W.Va. 162, 475 S.E. 2d 162 (1996).

As the respondent neither filed a brief nor appeared for the hearing set on June 12, 2001, the matter is now ripe for consideration.

Upon consideration of the report filed by the petitioner, the accompanying exhibits, and in light of the rules governing lawyer conduct and discipline, the Court is of the opinion that the respondent is disabled from the practice of law and should be indefinitely

suspended from the practice of law in the State of West Virginia based upon this disability until further order of the Court. Further, the Court is of the opinion that all pending disciplinary proceedings against the respondent should be held in abeyance until entry of an order of reinstatement by this Court.

Accordingly, it is hereby ADJUDGED and ORDERED that the respondent Kathy A. W. Arnold is hereby indefinitely suspended from the practice of law in the State of West Virginia, effective from the date of release of this order, subject to the reinstatement procedures set forth in Rule 3.24 of the Rules of Disciplinary Procedure.

It is further ORDERED that all pending disciplinary proceedings against the respondent shall be held in abeyance until entry of an order of reinstatement by this Court pursuant to Rule 3.24 of the Rules of Disciplinary Procedure.

It is finally ORDERED that service of a copy of this order upon the petitioner and the respondent shall constitute sufficient notice of the contents herein.