

MAR 20 2002

STATE OF WEST VIRGINIA

At a Regular Term of the Supreme Court of Appeals continued and held at Charleston, Kanawha County, on the 13<sup>th</sup> of March, 2002, the following order was made and entered:

Lawyer Disciplinary Board, Complainant

vs.) No. 25837

Richard E. Hardison, a suspended member of  
The West Virginia State Bar, Respondent

On a former day, to-wit, January 10, 2002, came the Hearing Panel Subcommittee of the Lawyer Disciplinary Board, by Michael T. Chaney, its chairperson, pursuant to Rule 3.10 of the Rules of Lawyer Disciplinary Procedure, and presented to the Court its written recommended disposition recommending that: (1) respondent's, Richard E. Hardison, license to practice law in the State of West Virginia be suspended indefinitely, with leave to petition for reinstatement upon the completion of one year of sobriety and complete abstinence from the consumption of alcohol and controlled substances, said period of abstinence to be supported by medical evidence obtained at the respondent's own expense in the form of periodic drug and alcohol screenings, and the expert opinion of treating and consulting physicians, the term of suspension and period of abstinence to be concurrent with the term previously imposed upon the respondent by this Court. During the period of suspension, respondent be prohibited from engaging in the practice of law which includes, but is not limited to, the following activities: (a) providing legal advice or counsel to a client in writing, in person, or over the telephone; (b) preparing legal instruments or documents by which legal rights and obligations are established, without supervision by a licensed attorney; (c) preparing pleadings or other

papers for a client incident to legal actions or special proceedings without supervision by a licensed attorney; and/or (d) acting in a representative capacity in protecting, enforcing or defending a client in the exercise of the client's legal rights and duties either in court, before administrative bodies or otherwise; (2) respondent be required to continue counseling and participation in Alcoholics Anonymous as directed by his physician(s); (3) respondent be required to satisfy all the requirements of the Mandatory Continuing Legal Education Commission for the current period; (4) respondent be required to complete an additional fifteen hours of continuing legal education credits in the area of office management; (5) prior to reinstatement, respondent be required to undergo a complete physical and psychological evaluation, including alcohol and substance abuse testing, at his expense, by a physician and/or psychologist designated by the Office of Disciplinary Counsel, who shall file a complete report of his/her findings with, and certify to, the Office of Disciplinary Counsel that the respondent is physically, mentally and psychologically able to resume the practice of law; (6) following reinstatement, respondent be required to practice under the supervision of a practicing attorney for three years, said attorney not related to him by blood or marriage; (7) following reinstatement, the respondent be required to maintain in full force and effect a policy of malpractice insurance with limits of liability not less than Five Hundred Thousand Dollars (\$500,000.00), and be required to provide proof of same to the Office of Disciplinary Counsel; (8) respondent be required to pay restitution in the amount of Twelve Thousand Three Hundred Thirty-Five Dollars and Three Cents (\$12,335.03) to Joseph E. Maynor; and (9) respondent be required to reimburse the Lawyer Disciplinary Board for the costs

incurred in the investigation of this matter in the amount of One Thousand One Hundred Five Dollars and Sixty-Three Cents (\$1,105.63). Thereafter, on the 14th day of February, 2002, pursuant to Rule 3.11 of the Rules of Lawyer Disciplinary Procedure, and presented to the Court its written consent thereto.

Upon consideration whereof, the Court is of opinion to and doth hereby adopt the written recommended disposition of the Hearing Panel Subcommittee of the Lawyer Disciplinary Board. It is therefore ordered that: (1) respondent's license to practice law in the State of West Virginia be, and it hereby is, suspended indefinitely, with leave to petition for reinstatement upon the completion of one year of sobriety and complete abstinence from the consumption of alcohol and controlled substances, said period of abstinence to be supported by medical evidence obtained at the respondent's own expense in the form of periodic drug and alcohol screenings, and the expert opinion of treating and consulting physicians. The term of suspension and period of abstinence shall be concurrent with the term previously imposed upon the respondent by this Court. During the period of suspension, respondent shall be prohibited from engaging in the practice of law which includes, but is not limited to, the following activities: (a) providing legal advice or counsel to a client in writing, in person, or over the telephone; (b) preparing legal instruments or documents by which legal rights and obligations are established, without supervision by a licensed attorney; (c) preparing pleadings or other papers for a client incident to legal actions or special proceedings without supervision by a licensed attorney; and/or (d) acting in a representative capacity in protecting, enforcing or defending a client in the exercise of the client's legal rights and duties either in court,

before administrative bodies or otherwise; (2) respondent shall continue counseling and participation in Alcoholics Anonymous as directed by his physician(s); (3) respondent shall satisfy all the requirements of the Mandatory Continuing Legal Education Commission for the current period; (4) respondent shall complete an additional fifteen hours of continuing legal education credits in the area of office management; (5) prior to reinstatement, respondent shall undergo a complete physical and psychological evaluation, including alcohol and substance abuse testing, at his expense, by a physician and/or psychologist designated by the Office of Disciplinary Counsel, who shall file a complete report of his/her findings with, and certify to, the Office of Disciplinary Counsel that the respondent is physically, mentally and psychologically able to resume the practice of law; (6) following reinstatement, respondent shall practice under the supervision of a practicing attorney for three years, said attorney not related to him by blood or marriage; (7) following reinstatement, the respondent shall maintain in full force and effect a policy of malpractice insurance with limits of liability not less than Five Hundred Thousand Dollars (\$500,000.00), and shall provide proof of same to the Office of Disciplinary Counsel; (8) respondent shall pay restitution in the amount of Twelve Thousand Three Hundred Thirty-Five Dollars and Three Cents (\$12,335.03) to Joseph E. Maynor; and (9) respondent shall reimburse the Lawyer Disciplinary Board for the costs incurred in the investigation of this matter in the amount of One Thousand One Hundred Five Dollars and Sixty-Three Cents (\$1,105.63). Chief Justice Davis did not participate in the consideration or decision of this matter. Justice McGraw would delay consideration of the required malpractice insurance until such time as the petition for reinstatement is filed, and further, opposes the

requirement that the respondent reimburse the Lawyer Disciplinary Board for the costs incurred in the investigation of this matter.

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

A True Copy

Attest:

  
Clerk, Supreme Court of Appeals