

MAR 10 2010

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 4th of March, 2010, the following order was made and entered:

Office of Lawyer Disciplinary Counsel, Petitioner

vs.) No. 35453

Scott Palmer Mason, a member of The West Virginia
State Bar, Respondent

On a former day, to-wit, January 15, 2010, came the Office of Disciplinary Counsel, by Rachael L. Fletcher Cipoletti, Lawyer Disciplinary Counsel, pursuant to Rule 3.27 of the Rules of Lawyer Disciplinary Procedure, seeking the immediate suspension of the license to practice law in the State of West Virginia of the respondent, and/or pursuant to Rule 3.29, Rules of Lawyer Disciplinary Procedure, requesting that this Court authorize the chief judge of the Circuit Court of Kanawha County to appoint an attorney licensed to practice law in the State of West Virginia to inventory respondent's files and to take such action as seems indicated to protect the interest of the respondent and his clients for the reasons stated therein.

Upon consideration whereof, the Court is of opinion to and doth hereby grant said petition. It is therefore ordered that the license to practice law in the State of West Virginia of Scott Palmer Mason, be, and it hereby is, suspended. It is further ordered that the Honorable Tod J. Kaufman, Chief Judge of the Circuit Court of Kanawha County, be, and he hereby is, authorized to appoint an attorney to inventory the respondent's files and to take such action as seems indicated to protect the interests of the respondent and his clients.

Service of a copy of this order upon the respondent and upon the Honorable Tod J. Kaufman, Judge, shall constitute sufficient notice of the contents herein.

A True Copy

Attest:


Clerk, Supreme Court of Appeals

NO. _____

**BEFORE THE SUPREME COURT OF APPEALS
STATE OF WEST VIRGINIA**

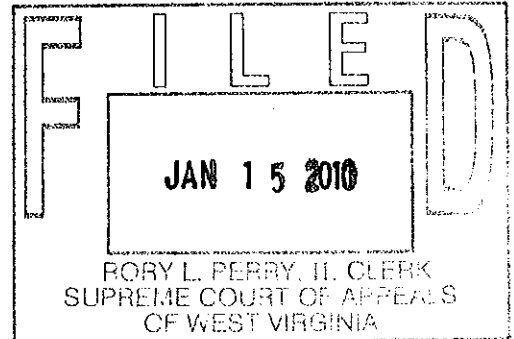
OFFICE OF LAWYER DISCIPLINARY COUNSEL,

Petitioner,

v.

**SCOTT PALMER MASON, a member
of the West Virginia State Bar,**

Respondent.



**PETITION TO SEEK IMMEDIATE SUSPENSION
OF A LAWYER AND
APPOINTMENT OF TRUSTEE**

Comes now the Office of Disciplinary Counsel by Rachael L. Fletcher Cipoletti, Lawyer Disciplinary Counsel, and moves the Court to immediately suspend Respondent's law license pending the resolution of the existing formal lawyer disciplinary charges in Lawyer Disciplinary Board v. Mason, Sup. Ct. No. 35432 (Complaint of Office of Disciplinary Counsel I.D. No. 06-02-368; Complaint of Ben Leonard, Esquire I.D. No. 07-05-567; Complaint of Glenn W. Tanner I.D. No. 08-05-221; Complaint of the Office of Disciplinary Counsel I.D. No. 08-03-500; Complaint of Andrew R. Helminiak I.D. No. 08-03-543; and Complaint of Bruce R. Jensen I.D. No. 09-03-130) filed on December 28, 2009.

Respondent has committed violations of the West Virginia Rules of Professional Conduct, poses a substantial threat of irreparable harm to the public, and has effectively abandoned the practice of law in the State of West Virginia.

Furthermore, pursuant to Rules of Lawyer Disciplinary Procedure Rules 3.27(c) and/or 3.29, the Office of Disciplinary Counsel requests the Court appoint [or authorize the Chief Judge of Kanawha County to appoint] another lawyer to serve as Trustee to protect the interests of Respondent's clients.

In support of this petition, the Office of Disciplinary Counsel states as follows:

FACTS

1. Scott Palmer Mason is a lawyer last known practicing in Charleston, Kanawha 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 Lawyer Disciplinary Board. Respondent was admitted to the West Virginia State Bar on September 24, 2002.
2. On or about December 31, 2008, a subpoena *duces tecum* was issued for his appearance at ODC for a sworn statement on February 18, 2009.
3. On that date, Respondent appeared and represented because of his concerns about his 5th amendment rights and the pending criminal case in Kanawha County, West Virginia, he requested that the sworn statement be continued so his new counsel could appear with him
4. Because Respondent indicated he was represented by counsel in the criminal proceeding, by letter dated February 25, 2009, ODC sent a letter to the lawyer Respondent indicated was representing his interests in the criminal matter requesting a general status update.

5. On or about May 5, 2009, Respondent faxed a letter to ODC and stated that he no longer resided in West Virginia and because his prior attorney did not effectively represent his interests, he had contacted another attorney for assistance in the pending matters. Respondent stated that he was in the process of securing new counsel and that he would be "in touch in the coming days."
6. After no response from Respondent, on or about June 30, 2009, ODC sent him a letter to the provided Kentucky address and requested that he contact ODC immediately to arrange a date to have his sworn statement. Moreover, ODC advised that there were additional complaints at ODC that Respondent had failed to provide a verified response.
7. The certified mail receipt was signed for by Dr. Cynthia Mason (believed to be Respondent's mother) and returned to the Office of Disciplinary Counsel.
8. To date, Respondent has failed to respond to these complaints and has not contacted the ODC or otherwise responded to multiple lawful requests for information.
9. In or about early December 2009, ODC secured the services of an investigator to attempt to locate Respondent and was advised that upon information and belief Respondent was residing in Bowling Green, Kentucky.
10. ODC filed a Statement of Charges against Respondent with this Honorable Court on or about December 28, 2009.
11. The Statement of Charges outlines Respondent's conduct in 6 complaints that charge that Respondent has committed multiple violations of the Rules of Professional Conduct, including, but not limited to: illegal use of narcotics and other related criminal activity; accepting fees without providing legal services; failing to communicate with clients; failing

to diligently represent clients; failing to respond to Orders from this Honorable Court; and failing to respond to lawful requests from ODC.

12. In addition to the criminal conduct outlined in the Statement of Charges, on or about September 3, 2009, Respondent was also convicted of Driving Under the Influence in the Warren County District Court in the State of Kentucky.

13. ODC has confirmed with Respondent's former law partner, Attorney Rico Moore, that he absorbed many of the "known" clients that Respondent had when he left the State of West Virginia. However, Mr. Moore stated that he has since learned that Respondent accepted clients that he was not aware of during the partnership and is uncertain as to any additional remaining unprotected clients.

14. Upon information and belief, Respondent has recently relocated to Nashville, Tennessee where he is operating a business as a solo practitioner and claims that he is specializing in criminal defense, civil litigation, domestic law, immigration and personal injury.

15. The Tennessee Bar advised ODC as of January 15, 2010, that Respondent is not a licensed member of the Tennessee Bar.

APPLICABLE RULES OF LAWYER DISCIPLINARY PROCEDURE

16. Rule 3.27(a) of the Rules of Lawyer Disciplinary Procedure Rule provides that upon receipt of sufficient evidence demonstrating that a lawyer has committed a violation of the Rules of Professional Conduct and poses a substantial threat of irreparable harm to the public, the Office of Disciplinary Counsel shall conduct an immediate investigation. Upon completion of the investigation, Rule 3.27(b) of the Rules of Lawyer Disciplinary Procedure

provides that ODC shall file a report with this Court indicating whether, in the opinion of Disciplinary Counsel, the lawyer's commission of a violation poses a substantial threat of irreparable harm to the public.

17. Pursuant to Rule 3.27(c) of the Rules of Lawyer Disciplinary Procedure, upon receipt of this report the Court, upon determining the existence of good cause, shall provide notice of the charges to the lawyer with the right to a hearing in not less than thirty days before the Court. After such hearing, the Court may temporarily suspend the lawyer or may order such other action as it deems appropriate until underlying disciplinary proceedings before the Lawyer Disciplinary Board have been completed.

18. With this Report, Disciplinary Counsel expresses the opinion that Respondent has committed numerous violations of the Rules of Professional Conduct including, but not limited to: (1) effective abandonment of his law practice in the State of West Virginia; (2) neglect of cases; (3) failing to communicate with clients; (4) failing to respond to Orders from this Honorable Court; and (5) engaging in an ongoing pattern of criminal conduct.

19. Respondent has exhibited a continued pattern of criminal activity that is a clear violation of the Rules of Professional Conduct and to protect his clients and the public, Respondent should be immediately suspended pending the resolution of the Statement of Charges.


20. Furthermore, because ODC is unable to confirm that Respondent's clients interests are protected, out of an abundance of caution, a lawyer should be appointed or authorized to serve as Trustee pursuant to Rule 3.27(3) and/or Rule 3.29 of the Rules of Lawyer Disciplinary Procedure.

WHEREFORE, accordingly, the Office of Disciplinary Counsel moves that this

Honorable Court:

1. Immediately suspend Respondent's license pending the outcome of the Statement of Charges; and
2. Appoint or authorize the appointment of a Trustee to at a minimum make the determination that Respondent's clients' interests are protected and take other such steps as deemed necessary.

Respectfully submitted,
Office of Disciplinary Counsel, by



Rachael L. Fletcher Cipoletti [Bar No. 8806]
Chief Lawyer Disciplinary Counsel
2008 Kanawha Blvd., East
Charleston, West Virginia 25311
(304) 558-7999
(304) 558-4015 facsimile

CERTIFICATE OF SERVICE

This is to certify that I, **Rachael L. Fletcher Cipoletti**, Lawyer Disciplinary Counsel for the Office of Disciplinary Counsel, have this the 15th day of January, 2010, served a true copy of the foregoing **"PETITION TO SEEK IMMEDIATE SUSPENSION OF A LAWYER AND APPOINTMENT OF TRUSTEE"** upon Respondent, Scott Palmer Mason, by mailing the same, United States Mail with sufficient postage, to the following known addresses:

Scott P. Mason, Esquire
179 Summers Street, Suite 314
Charleston, WV 25301

Scott P. Mason Esquire
1508 Aquarius Way
Bowling Green, KY 42104

Scott P. Mason, Esquire
103 Academy Square
Nashville, TN 37210



Rachael L. Fletcher Cipoletti