

At a Regular Term of the Supreme Court of Appeals, continued and held at Charleston, Kanawha County, on the 3rd day of April, 1986, the following order was made and entered, to-wit:

APR - 7 1986

FILED

Per Curiam

W. Va. 1

APR 3 1986

Committee on Legal Ethics of the West Virginia State Bar

[Signature]
CLERK OF THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

0. 17013 v.

Howard M. Ferris, a member of the West Virginia State Bar

This is a disciplinary action against Howard M. Ferris, a West Virginia attorney, filed by the Committee on Legal Ethics (Committee) of the West Virginia State Bar. The Committee charged Mr. Ferris with violating DR 1-102(A) (6) of the West Virginia Code of Professional Responsibility, which states: "(A) A lawyer shall not: . . . (6) Engage in any conduct that adversely reflects on his fitness to practice law." This charge was based upon his plea of nolo contendere to a criminal charge of possession of marijuana, in violation of W. Va. Code, 60A-4-401(c). The case is now before this Court on the complaint filed by the Committee, which recommended that Mr. Ferris be publicly reprimanded.

There is very little dispute in the facts. On October 20, 1983, Mr. Ferris appeared before a Taylor County magistrate and plead nolo contendere to a charge that he possessed marijuana. The magistrate fined Mr. Ferris \$250 for the offense. In addition to paying the fine, Mr. Ferris agreed to perform thirty hours of civil legal work for senior citizens in the county.

At the disciplinary hearing, Mr. Ferris testified that he had not planted the marijuana on his property nor had he used

it for his own purposes. However, he was aware of the person who had planted the marijuana and had asked that person to remove it, but no action in this regard was ever taken.

In Syllabus Point 2 of Committee on Legal Ethics v. Daniel, 150 W. Va. 333, 235 S.E.2d 369 (1977) (per curiam), we stated the standard of proof in a proceeding based upon a legal ethics complaint:

"In attorney disciplinary proceedings based on a complaint charging professional misconduct and prosecuted by The Committee on Legal Ethics of The West Virginia State Bar for publicly reprimanding the attorney and for suspending the license of the attorney to practice law, the burden is on the committee to prove the charges contained in the complaint by full, clear and preponderating evidence."

The record and the Committee's findings of fact support the conclusion that Mr. Ferris violated DR 1-102(A) (6) of the West Virginia Code of Professional Responsibility. As we recently indicated in Committee on Legal Ethics v. Higginbotham,

___ W. Va. ___, ___ S.E.2d ___ (No. 16941 3/12/86), an attorney can be disciplined for committing crimes that do not involve moral turpitude, as in the present case. We conclude the Committee by full, clear, and preponderating evidence proved the ethical violation against Mr. Ferris in its complaint.

It is, therefore, Adjudged and Ordered that Howard M. Ferris be publicly reprimanded for violating DR 1-102(A) (6) of the West Virginia Code of Professional Responsibility.

It is further Adjudged and Ordered that Howard M. Ferris reimburse the Committee for the expenses incurred in the investigation and hearing of this matter in the amount of \$585.07.

Public Reprimand.

A True Copy

Attest:


Clerk Supreme Court of Appeals