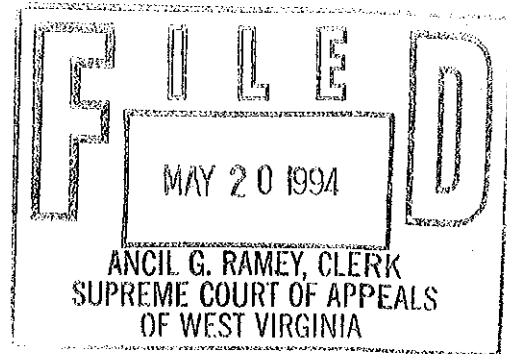


Per Curiam

Investigative Panel of the Committee
on Legal Ethics of the West Virginia
State Bar, Petitioner

No. 21992 v.

Lou Ann Holland, a member of the
West Virginia State Bar, Respondent



On the 3rd day of May, 1994, this matter came on for hearing pursuant to the petition for suspension filed with this Court on the 10th day of November, 1993, by the Investigative Panel of the Committee on Legal Ethics of the West Virginia State Bar. This petition was filed pursuant to the provisions of Section 26(b) of Article VI of the Constitution, By-Laws, and Rules and Regulations (Rules) of the West Virginia State Bar, which allows this Court to temporarily suspend an attorney's license who is found to be incapacitated to practice law.¹ Service of the

¹Section 26(b) of Article VI of the Rules states:

"Whenever the Investigative Panel or Hearing Panel shall petition the court to determine whether an attorney is incapacitated from continuing the practice of law by reason of mental infirmity or illness or because of addiction to drugs or intoxicants, the court may take or direct such action as it deems necessary or proper to determine whether the attorney is so incapacitated, including the examination of the attorney by such qualified medical experts as the court shall designate. If, upon due consideration of the matter, the court concludes that the attorney is incapacitated from continuing to practice law, it shall enter an order suspending him on the ground of such disability for an

(continued...)

foregoing petition was made upon Lou Ann Holland, the respondent, by mailing the same, postage prepaid, to her attorney on November 18, 1993.

This matter was continued on two occasions to allow the parties to resolve the matter informally. The respondent has undertaken therapy and has reduced substantially her law practice under the voluntary supervision of another attorney. As a part of the original continuance of this case from the January 11, 1994, argument docket, the respondent agreed that she would not engage in the practice of law until this case was resolved by this Court.

In her response filed on February 28, 1994, the respondent attached a copy of a report dated December 1, 1993, by Michael D. Franzen, Ph.D., who is a clinical neuropsychologist and associate professor at West Virginia University. Dr. Franzen, who has treated the respondent for some period of time, was of the view that she was recovered and able to work full time. This view was based on Dr. Franzen's interview with the respondent and her scores

¹(...continued)

indefinite period and until the further order of the court and any pending disciplinary proceeding against the attorney shall be held in abeyance.

"The court may provide for such notice to the respondent-attorney of proceedings in the matter as is deemed proper and advisable and may appoint an attorney to represent the respondent if he is without adequate representation."

We do not believe that this matter can be resolved under the foregoing section of the Rules. We accept Dr. Franzen's opinion in the absence of any contrary expert testimony. We deal only with the incapacity issue under the emergency rule invoked under Section 26(b). Therefore, it is Ordered that this matter be dismissed without prejudice for the Investigative Panel to initiate such other proceedings as it may deem appropriate.