

STATE OF WEST VIRGINIA

At a Regular Term of the Supreme Court of Appeals continued and held at Charleston, Kanawha County, on the 12th day of September, 1996, the following order was made and entered:

Lawyer Disciplinary Board,
Respondent

vs.) No. 23318

John S. Folio, a former member of The
West Virginia State Bar, Petitioner

On a former day, to-wit, February 22, 1996, came the petitioner, John S. Folio, pro se, pursuant to Rule 3.33(b), Rules of Lawyer Disciplinary Procedure, and presented to the Court his petition for the reinstatement of his license to practice law in the State of West Virginia. Thereafter, on the 14th day of March, 1996, this matter was referred to the Lawyer Disciplinary Board for review and recommendation. Finally, on the 5th day of August, 1996, came the Hearing Panel Subcommittee of the Lawyer Disciplinary Board, by Steven Johnston Knopp, Lawyer Disciplinary Counsel, pursuant to Rule 3.33(c), Rules of Lawyer Disciplinary Procedure, and presented to the Court its written recommended disposition that (1) petitioner's license to practice law in the State of West Virginia be reinstated; (2) petitioner's practice be supervised for a period of two years by James P. Martin, Esq., Director of the West Virginia Legal Services Plan, Inc., or, in the alternative, by the Office of Disciplinary Counsel; (3) petitioner refrain from representing or engaging in social contact with Carl Lee Gallo, John Gallo or members of their immediate family; and (4) petitioner comply with The West Virginia State Bar's requirements regarding the payment of dues. The Hearing Panel Subcommittee further requested that the ten-day period for the filing of objections to these findings be waived.

Upon consideration whereof, the Court is of opinion to and doth hereby approve the written recommended disposition in the above-captioned proceeding. It is therefore ordered that (1) petitioner's license to practice law in the State of West Virginia be, and it hereby is, reinstated effective immediately; (2) petitioner's practice of law shall be supervised for a period of two years by James P. Martin, Esq., Director of the West Virginia Legal Services Plan, Inc., or, in the alternative, by the Office of Disciplinary Counsel; (3) petitioner shall refrain from representing or engaging in social contact with Carl Lee Gallo, John Gallo or members of their immediate family; and (4) petitioner shall comply with The West Virginia State Bar's requirements regarding the payment of dues before he can enter the practice of law.

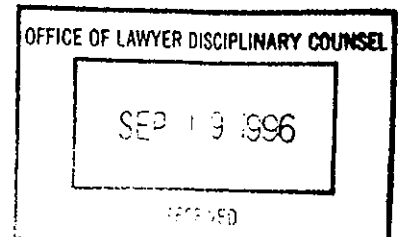
Service of a certified copy of this order upon all parties shall constitute sufficient notice of the contents herein.

A True Copy

Attest:



Clerk, Supreme Court of Appeals



FILE COPY

**DO NOT REMOVE
FROM FILE**

**BEFORE THE HEARING PANEL
OF THE
LAWYER DISCIPLINARY BOARD**

FILED

AUG - 5 1996

**ANCL G. RAMOS, CLERK
SUPREME COURT OF APPEALS
SOUTH WEST VIRGINIA, 23318
RD. No. 96-03-050**

**RE: REINSTATEMENT PETITION OF
JOHN SAMUEL FOLIO**

ORDER

A hearing was held on July 26, 1996, in the above-referenced reinstatement matter. Present were Hearing Panel Subcommittee members R. Kemp Morton, Chairperson, Ann E. Snyder, Esquire and Sister Mona Farthing, lay member. Petitioner, John Samuel Folio, was present in person and appeared pro-se. The Office of Disciplinary Counsel was represented by Steven Johnston Knopp, Lawyer Disciplinary Counsel.

The following witnesses testified: James P. Martin, Esquire, Marcy Jo Folio, Raymond P. Oliverio and Petitioner. The Subcommittee reviewed written material, including Petitioner's reinstatement questionnaire and exhibits, and documents, exhibits and a report submitted by the Office of Disciplinary Counsel. Stipulations of admissibility and authenticity of exhibits were entered by the parties, and all exhibits were admitted into evidence without objection. The evidence and the transcript of the proceeding are attached hereto and incorporated herein by reference, in lieu of detailed findings and conclusions thereon, in the interest of reducing paperwork within the Board's files.

After consideration of the testimony of witnesses and the evidence, the Subcommittee made the following findings:

1. The Respondent has met his burden of proof in this proceeding.
2. The Petitioner demonstrated his fitness to return to the practice of law.
3. The Petitioner demonstrated to the satisfaction of the Panel evidence of the nature of the underlying offense.
4. The Petitioner demonstrated satisfactory occupations and conduct in the period since his license was annulled.
5. The Petitioner engaged in practice from the time of the alleged offense to his disbarment, a period of nine (9) years, without a complaint.
6. The Petitioner has engaged in proper and appropriate conduct since his disbarment.
7. The Petitioner has satisfied his requirement for Continuing Legal Education set out in Paragraph 9 of the Rules Governing Mandatory Continuing Legal Education.
8. It is in the best interest of the Bar, the profession, and the public to reinstate the Petitioner to practice.

Accordingly, the Panel unanimously determines and concludes that Respondent is entitled to have his law license reinstated provided that he be supervised by a mentor for a period of two years. Mr. James P. Martin, Director of the West Virginia Legal Services Plan, Incorporated, has expressed his willingness to undertake this task, and it is recommended that he be directed to do so, so long as he remains willing to undertake the task, and otherwise, to be supervised by the Office of Disciplinary Counsel. The Mentor and Disciplinary Counsel shall make such discreet inquiry into the practice of the Petitioner as shall be necessary to ascertain his compliance with his obligations as a member of the Bar.

The Panel further recommends that the order of reinstatement, if granted, specifically prohibit the Petitioner from representing or engaging in social contact with Carl Lee Gallo, John Gallo, or members of their immediate family.

The Petitioner and Disciplinary Counsel request that the Supreme Court of Appeals consider these recommendations on an expedited basis and waive the ten-day period for filing of objections to the findings herein contained. Neither party requests oral argument upon these findings and recommendations.

Respondent understands that he will not be able to practice law, should the Supreme Court accept these recommendations, until he has made payment of his Bar dues.

Prepared and Inspected by:

Steven Johnston Knopp Date: July 26, 1996
Steven Johnston Knopp
Lawyer Disciplinary Counsel

John Samuel Folio Date: July 26, 1996
John Samuel Folio
Petitioner, Pro-Se

The preceding report has been read and approved.

R. Kemp Morton

Date: 7/29/96

R. Kemp Morton, Chairperson
Hearing Panel Subcommittee
Lawyer Disciplinary Board

Ann E. Snyder

Date: 7-31-96

Ann E. Snyder, Esquire
Hearing Panel Subcommittee
Lawyer Disciplinary Board

Sister Mona Farthing

Date: 7/26/96

Sister Mona Farthing
Hearing Panel Subcommittee
Lawyer Disciplinary Board