

STATE OF WEST VIRGINIA

At a Regular Term of the Supreme Court of Appeals continued and held at Charleston, Kanawha County, on the 5th day of October, 1995, the following order was made and entered:

**Office of Lawyer Disciplinary Counsel,
Petitioner**

vs.) No. 23027

**Richard L. Wolfe, II, an administratively
suspended member of The West Virginia State
Bar, Respondent**

On a former day, to-wit, August 18, 1995, came the petitioner, the Office of Lawyer Disciplinary Counsel, by Steven Johnston Knopp, its attorney, pursuant to Rule 3.23(b), Rules of Lawyer Disciplinary Procedure, seeking the administrative suspension of the license to practice law in the State of West Virginia of the respondent, Richard L. Wolfe, II, an inactive member of The West Virginia State Bar, for the reasons stated therein. Thereafter, on the 28th day of September, 1995, came the respondent, Richard L. Wolfe, II, by James A. Matish, his attorney, and presented to the Court his written response in agreement therewith.

Upon consideration whereof, the Court doth hereby order the license to practice law in the State of West Virginia of the respondent, Richard L. Wolfe, II, administratively suspended, effective on the 1st day of November, 1995.

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

A True Copy

STATE OF MISSISSIPPI

Attest:

Amey Ramey

Clerk, Supreme Court of Appeals

RECEIVED

BEFORE THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

OFFICE OF LAWYER DISCIPLINARY COUNSEL,

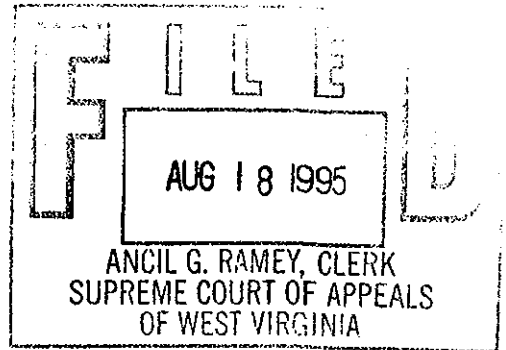
Petitioner,

v.

No. 22900

RICHARD L. WOLFE, II, an active
member of the West Virginia State Bar,

Respondent.



PETITION FOR SUSPENSION FOR DISABILITY

Steven Johnston Knopp, Lawyer Disciplinary Counsel
Office of Lawyer Disciplinary Counsel
210 Dickinson Street
Charleston, West Virginia 25301
(304) 558-7999

BEFORE THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

OFFICE OF LAWYER DISCIPLINARY COUNSEL,

Petitioner,

v.

No. 22900

RICHARD L. WOLFE, II

Respondent.

PETITION FOR ADMINISTRATIVE
SUSPENSION FOR DISABILITY

COMES NOW the Office of Disciplinary Counsel, (hereinafter Petitioner), by counsel, Steven Johnston Knopp, and petitions this Court to suspend the law license of Richard L. Wolfe, II (hereinafter Respondent) pursuant to Rule 3.23(b) of the Rules of Lawyer Disciplinary Procedure. Respondent is disabled from continuing the practice of law by reason of his affliction with multiple sclerosis. In support of this petition, the Office of Lawyer Disciplinary Counsel states as follows:

1. Rule 3.23(b) of the West Virginia Rules of Lawyer Disciplinary Procedure provides in pertinent part:

If, upon due consideration of the matter, the Court concludes that the lawyer is disabled from continuing to practice law, it shall enter an order imposing an administrative suspension on the lawyer on the ground of such disability until further order of the Court. . . .

2. The West Virginia State Bar is an administrative agency of the Court composed of all attorneys licensed to practice law within the State of West Virginia.

3. Petitioner is an administrative arm of the State Supreme Court pursuant to Rule 4 of the West Virginia Rules of Lawyer Disciplinary Procedure and was established to investigate and prosecute violations of the Rules of Professional Conduct.

4. Respondent became licensed to practice law in West Virginia on May 18, 1982. Respondent is 37 years of age, and practiced law with a firm in Clarksburg until he began the private practice of law from his own office in Clarksburg in 1984. Respondent became a Family Law Master in 1992, and continued in that capacity until overtaken by medical problems.

5. In November 1984, Respondent was diagnosed with multiple sclerosis. He has been treated for this condition at West Virginia University Hospitals and at the Cleveland Clinic.

6. Unfortunately, according to the medical summary from Cleveland Clinic, dated July 12, 1995, Respondent has progressed from a mild to moderate degree of impairment in November 1984, to a permanent and total disability, as of the date of the report. (Exhibit 1) There is no prognosis for improvement.

7. On May 23, 1995, the Investigative Panel of the Lawyer Disciplinary Board returned a statement of charges against Respondent, alleging a violation of Rule 8.4(b) and/or 8.4(c) of the W. Va. Rules of Professional Conduct, relating to the Respondent's personal use of funds from the client trust fund account. The charges have been set for hearing, but further proceedings have been delayed so that evaluations of the Respondent's physical and mental condition could be made.

8. Counsel for Petitioner and Respondent have agreed to a Psychological evaluation of Respondent by William Fremouw, Ph.D., a licensed Psychologist, to determine whether Respondent is able to defend or assist in the defense of the pending charges, and to provide an expert opinion on this issue.

9. The Petitioner and Respondent are in receipt of a report, and an amended report, from this expert, dated August 2, 1995, which has been reviewed by the parties. (Exhibit 2)

10. The August 2, 1995 report of Dr. Fremouw concludes that the Respondent could not meaningfully assist his counsel in the defense of the pending charges. The impairment from which the Respondent suffers is permanent and no improvement is expected, in his opinion.

11. Counsel for Petitioner and Respondent concur that the medical evidence of Respondent's impairment, disability, and inability to assist in his defense of the pending disciplinary charges, is a substantial and compelling basis which requires Petitioner to seek the Respondent's administrative suspension.

WHEREFORE, based upon the foregoing, Petitioner respectfully requests that this Court suspend Respondent's license to practice law pursuant to W. Va. Rules of Disciplinary Procedure Rule 3.23 (c), because he is disabled from continuing the practice of law by reason of his impairment due to multiple sclerosis. Petitioner further requests that this Court seal the medical reports attached hereto as Exhibits 1 and 2, owing to the sensitive nature of their contents, and in respect of Respondent's privacy interests.

Respectfully submitted,
OFFICE OF LAWYER DISCIPLINARY COUNSEL
By Counsel



Steven Johnston Knopp
Lawyer Disciplinary Counsel
210 Dickinson Street
Charleston, West Virginia 25301

CERTIFICATE OF SERVICE

This is to certify that I, Steven Johnston Knopp, Lawyer Disciplinary Counsel, have this day, the 18th day of August, 1995, served a true copy of the foregoing "PETITION FOR SUSPENSION FOR DISABILITY" upon James A. Matish, counsel for Respondent, Richard L. Wolfe, II, by mailing the same, via U.S. Mail with sufficient postage to Mr. Matish at 214 Court Street, Clarksburg, West Virginia 26301.



Steven Johnston Knopp
Lawyer Disciplinary Counsel