

STATE OF WEST VIRGINIA

At the Supreme Court of Appeals, continued and held at Charleston, Kanawha County, on July 23, 2020, the following order was made and entered **in vacation**:

Lawyer Disciplinary Board,
Petitioner

vs.) No. 18-1113

David A. Kirkpatrick, a member of
The West Virginia State Bar,
Respondent

ORDER

On April 22, 2020, the Hearing Panel Subcommittee of the Lawyer Disciplinary Board, by its Chair Stephen M. Mathias, under Rule 3.10 of the Rules of Lawyer Disciplinary Procedure, filed its written recommended disposition in this matter, recommending that:

- (1) the respondent's law license be suspended for a period of six months;
- (2) upon suspension, the respondent must comply with the mandates of Rule 3.28 of the Rules of Lawyer Disciplinary Procedure;
- (3) the respondent be required to petition for reinstatement pursuant to Rule 3.32 of the Rules of Lawyer Disciplinary Procedure;
- (4) prior to applying for reinstatement the respondent must provide a copy of a Conciliation Agreement between himself and Public Defender Services reflecting that the restitution outlined in the written recommended disposition has been satisfied; and
- (5) the respondent be ordered to pay the costs of these proceedings pursuant to Rule 3.15 of the Rules of Lawyer Disciplinary Procedure.

Thereafter, on May 18, 2020, the Office of Disciplinary Counsel, by Renée N. Frymyer, Lawyer Disciplinary Counsel, filed its consent to the recommendation. The respondent did not file a consent or an objection to the recommendation.

Upon consideration, the Court is of the opinion to and does concur with and approve the recommended disposition of the Hearing Panel Subcommittee of the Lawyer Disciplinary Board.

It is therefore ORDERED that:

- (1) The license to practice law in the State of West Virginia of the respondent, David A. Kirkpatrick, shall be, and it hereby is, **suspended** for a period of six months, effective immediately;
- (2) The respondent is hereby directed to comply with the mandates of Rule 3.28 of the Rules of Lawyer Disciplinary Procedure;
- (3) The respondent is required to petition for reinstatement under Rule 3.32 of the Rules of Lawyer Disciplinary Procedure;
- (4) Prior to petitioning for reinstatement, the respondent must provide a copy of a Conciliation Agreement between himself and Public Defender Services stating that the restitution outlined in the written recommendation from the Hearing Panel Subcommittee has been satisfied;
- (5) The respondent shall pay the costs of these proceedings under Rule 3.15 of the Rules of Lawyer Disciplinary Procedure.

Service of a copy of this order upon Lee Murray Hall and Ronald H. Hatfield Jr., counsel for the respondent; the Office of Disciplinary Counsel; and the West Virginia State Bar shall constitute sufficient notice of the contents herein.

Justice Workman and Justice Hutchison do not concur with the entirety of the recommendation. They would suspend the respondent for three months, with automatic reinstatement.

A True Copy

Attest: /s/ Edythe Nash Gaiser
Clerk of Court

