

STATE OF WEST VIRGINIA

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At a Regular Term of the Supreme Court of Appeals, continued Transcription, Kanawha County, on September 8, 2023, the following order was made and entered:

Office of Lawyer Disciplinary Counsel,
Petitioner

vs.) No. 23-187

Keith L. Wheaton, a suspended member of the
West Virginia State Bar,
Respondent

ORDER

On May 11, 2023, a Contempt and Suspension Order was entered in this matter and the respondent Keith L. Wheaton's license to practice law in the State of West Virginia was immediately suspended until the time he purges himself of contempt by complying with the auditing requirements set forth and required by the Court's June 14, 2021, mandate finalizing the Court's decision in *In re Petition for Reinstatement of Keith L. Wheaton*, 245 W.Va. 199, 858 S.E.2d 662 (2021). In addition, the order directed Keith L. Wheaton to comply with Rule 3.28 of the Rules of Lawyer Disciplinary Procedure.

The respondent Keith L. Wheaton did not comply with Rule 3.28(c) of the Rules of Lawyer Disciplinary Procedure within 20 days of the Court's May 11, 2023, order. On June 8, 2023, the Court issued a rule to show cause in contempt for failure to comply with Rule 3.28(c) of the Rules of Lawyer Disciplinary Procedure (hereafter Rule 3.28) directed against the respondent returnable September 6, 2023.

On July 31, 2023, the respondent Keith L. Wheaton filed a "motion for extension of time to file audits" requesting an additional 90 days to file the required audits without the need to file a petition for reinstatement. In essence, the respondent is requesting that the 3-month time period for automatic reinstatement under Rule 3.31 of the Rules of Lawyer Disciplinary Procedure be

extended for him. The Office of Lawyer Disciplinary Counsel (ODC), by Rachael L. Fletcher Cipoletti, Chief Lawyer Disciplinary Counsel, filed a response to the motion for extension on August 9, 2023.

On August 31, 2023, the respondent filed a motion to file Rule 3.28 information under seal out-of-time. The information does not include all requirements of Rule 3.28. Finally, on September 4, 2023, the respondent filed a motion for reinstatement to the bar requesting automatic reinstatement of his license to practice law.

Keith L. Wheaton did not appear before the Court on September 6, 2023, as directed.

The Court finds good cause to hold Keith L. Wheaton in contempt for his failure to comply with Rule 3.28 of the Rules of Lawyer Disciplinary Procedure.

Upon review and consideration of the respondent's "motion for extension of time to file audits", the Court treats this as a request to extend the time period for automatic reinstatement and refuses the motion.

Upon review and consideration of the respondent's "motion to file Rule 3.28 information under seal out of time", the motion is granted as to the information filed, but the information filed is insufficient as to Rule 3.28.

Upon review and consideration of the respondent's "motion for reinstatement", the Court refuses the motion.

It is ORDERED that Keith L. Wheaton is held in contempt of Court for his failure to comply with this Court's May 11, 2023, Contempt and Suspension Order by failing to comply with Rule 3.28 of the Rules of Lawyer Disciplinary Procedure.

It is ORDERED that Keith L. Wheaton's license to practice law in the State of West Virginia remains suspended.

It is ORDERED that Keith L. Wheaton will purge himself of the contempt once he has complied with all orders of this Court, including the Court's June 14, 2021, mandate finalizing the Court's decision in *In re Petition for Reinstatement of Keith L. Wheaton*, 245 W.Va. 199, 858 S.E.2d

662 (2021), the May 11, 2023 Contempt and Suspension order entered in this matter, and this order.

It is ORDERED that if Keith L. Wheaton desires reinstatement of his license to practice law in the State of West Virginia, he must petition for reinstatement in accordance with Rule 3.32 of the Rules of Lawyer Disciplinary Procedure.

This order constitutes final disposition and the matter is removed from the docket of this Court.

The Clerk of Court is directed to serve a copy of this order on the respondent, Keith L. Wheaton, the Office of Lawyer Disciplinary Counsel, and the West Virginia State Bar.

A True Copy

Attest: /s/ Edythe Nash Gaiser
Clerk of Court

