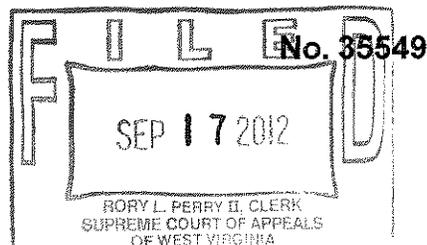


BEFORE THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

**LAWYER DISCIPLINARY BOARD,
Petitioner,**

v.

**JOSHUA M. ROBINSON, a suspended member of
The West Virginia State Bar**



BRIEF OF RESPONDENT JOSHUA M. ROBINSON

Statement of Case

A. Proceedings Below

The Court suspended Joshua Robinson's law license on March 15, 2010, following his indictment and incarceration after being unable to make bail. He entered into a guilty plea on April 19, 2010 and was sentenced on July 28, 2010. Following the filing by the Office of Disciplinary Counsel of a petition to annul Mr. Robinson's license pursuant to Rule 3.18(e) of the Rules of Lawyer Disciplinary Procedure on April 29, 2010, Mr. Robinson requested a mitigation hearing pursuant to Rule 3.18(e) and (f), and the Chairman of the Lawyer Disciplinary Board granted it. An evidentiary hearing was held in this matter on March 28, 2011. Proposed findings were submitted by May 27, 2011, and the Panel issued its written recommendation that Mr. Robinson's law license be annulled on February 27, 2012.

B. Statement of Case

The Respondent wishes to set forth his defense to the Petition for Annulment to place the evidence considered at the hearing in perspective.

Ordinarily, a conviction under Rule 3.18 of the Rules of Lawyer Disciplinary

Procedure merits the sanction of disbarment. However, if a mitigation hearing is granted, as it was in this case, the respondent lawyer may introduce evidence in mitigation and the ODC may introduce evidence of aggravating factors. A lawyer may not collaterally attack his conviction in a mitigation hearing. His conviction stands as conclusive evidence of the guilt of the crime. Rule 8.18(d) of the Rules of Lawyer Disciplinary Procedure. Case law indicates however that the lawyer may introduce evidence concerning the nature of his misconduct and the surrounding facts and circumstances in order to justify the imposition of a sanction other than disbarment. *Committee on Legal Ethics v. Boettner*, 188 W. Va. 1, 422 S.E.2d 478 (1992).

A Hearing Panel is also guided by the American Bar Association in its "Standards for Imposing Lawyer Sanctions" lists the following facts as being relevant mitigating circumstances to justify a reduction in the degree of discipline to be imposed: (a) absence of a prior disciplinary record; (b) absence of a dishonest or selfish motive; (c) personal or emotional problems; (d) timely good faith effort to make restitution or to rectify consequences of misconduct; (e) full and free disclosure to disciplinary board or cooperative attitude toward proceedings; (f) inexperience in the practice of law; (g) character or reputation; (h) physical or mental disability or impairment; (i) delay in disciplinary proceedings; (j) interim rehabilitation; (k) imposition of other penalties or sanctions; (l) remorse; and (m) remoteness of prior offenses.

In this case, Joshua M. Robinson pled guilty to unlawfully wounding his client, David L. Gump. This crime occurs when a person unlawfully wounds another, causing him bodily injury with the intent to maim, disfigure, disable or kill. The crime took place on the evening of December 2, 2009 at Mr. Robinson's house at 1542 Lee Street. Mr. Robinson struck

Mr. Gump with a baseball bat several times, causing Mr. Gump serious injury. The Respondent did not in any manner attempt to collaterally attack his conviction for unlawful wounding at the hearing. However Mr. Robinson's explanation of the circumstances surrounding his committing unlawful wounding differed from the Prosecutor's and the Office of Disciplinary Counsel's theory. Mr. Robinson contended that Mr. Gump, a drug addict who had cocaine, THC, Opiates and bezodiazapene in his system that day, showed up at his house to demand money for drugs, and pounded on his door until window panes broke and the door frame gave way to open the door. Mr. Robinson grabbed the baseball bat to defend himself and push Mr. Gump out of the house. However, his anger led him to strike Mr. Gump with the bat when it was unnecessary for his defense when he could have retreated back into the house.

The ODC contended that the reason for this confrontation was that Mr. Robinson had misappropriated \$1,117.35 from a State Farm insurance check made payable to Gerald Gump, David's grandfather, and David Gump had appeared at Mr. Robinson's house, which also served as his office, to demand the funds and the return of his estate property. Mr. Robinson then attacked him without provocation and lied about Mr. Gump breaking and entering.

Additionally, the Petition for Annulment raised a number of other issues: Criminal proceedings in Kentucky and the other charges made in the West Virginia indictment that were dismissed as part of the plea agreement, felony embezzlement and obstruction of justice. By necessity, Mr. Robinson needed to address and explain all of these issues. In mitigation, Mr. Robinson introduced evidence to show absence of a prior disciplinary record; full and free disclosure to disciplinary board or cooperative attitude toward

proceedings; interim rehabilitation; imposition of other penalties or sanctions and remorse.

The Respondent wishes to supplement the facts set forth in the Office of Disciplinary Counsel's brief to state that a drug screen performed on Mr. Gump when he was taken to the hospital on December 2, 2009, tested positive for illegal drugs--cocaine and marijuana--in his system, as well as prescription medications--opiates (painkillers) and bezodiazapene (tranquilizers). [Respondent's Ex. 5]. Mr. Gump was later arrested in Kanawha County and charged with felony possession with intent to deliver heroin on March 31, 2010 [ODC Ex. 11 Bates 586-596]. He previously pled guilty to attempting to obtain money by false pretenses, having forged the signature on one of Gerald Gump's checks. [ODC Ex. 11, Bates Nos. 534-544].

Statement Regarding Oral Argument and Decision

This matter is currently scheduled for oral argument under Appellate Rule 1.19 on Wednesday, September 26, 2012.

ARGUMENT

I. The Hearing Panel arbitrarily ignored the evidence Respondent submitted and relied on hearsay to reject his testimony.

In making its recommendation of disbarment, the Hearing Panel rejected all of Mr. Robinson's evidence. Such evidence included:

–his explanation of the circumstances surrounding his unlawful wounding of David Gump, such as the fact that Mr. Gump broke his front door windows and pushed against the door frame to open it and that Mr. Gump was in his house when Mr. Robinson first confronted him;

–the testimony of Randall Clifford, his therapist, regarding his efforts at interim rehabilitation;

–the documentation establishing the validity of an e-mail sent by Robert Wills, which

e-mail formed the basis of the obstruction of justice charge in the indictment because Mr. Wills later claimed he had not sent it;

–the affidavit of his former wife concerning the Kentucky wanton endangerment charge even though he had submitted it for sentencing purposes to the Court;

To the extent this evidence relied upon Mr. Robinson's credibility, the Hearing Panel make a specific finding that his testimony was not credible. Although courts generally defer to credibility findings made by an administrative hearing officer, in this case, the Hearing Panel displayed hostility towards Mr. Robinson and his witnesses, before Mr. Robinson even testified, apparently based upon the Panel's review of the exhibits prior to the hearing.¹ The hostility included misstating the record of Mr. Robinson's various statements on the issue of alcohol consumption and misstating the law.

With respect to documentary evidence, the Hearing Panel refused to accept the significance of the e-mail header information and the results of a subpoena to an internet service provider showing that the e-mail was sent from the account of Carl Wills and not from an account of Mr. Robinson's, yet had no problem accepting hearsay evidence from the Kanawha County Prosecuting Attorneys who testified at the hearing as to what witnesses told them or what they would have testified to had the matter gone to trial.

Mr. Robinson put on evidence first, since he had the burden of proving mitigation. He called Randall Clifford, MA, the licensed professional counselor he began seeing in April 2010 for anger management counseling. Mr. Clifford was called as a witness to establish the mitigating factor of interim rehabilitation from his anger issues. The Hearing Panel Recommended Decision erroneously stated that Mr. Robinson claimed as a

¹ It has been the practice of the Hearing Panel Subcommittees to require submission of exhibit notebooks the week before the hearing.

mitigating factor that he had personal and emotional problems.

Mr. Clifford's report and counseling notes were submitted as Respondent's Exhibit 6. His notes show that Mr. Robinson reported heavy alcohol consumption which he quit four months previously and a history of temper issues, fighting with father and ex-wife. Mr. Clifford's diagnostic impressions from the first meeting were intermittent explosive disorder and alcohol abuse in remission by report.

The Hearing Panel members' questions to Mr. Clifford demonstrated a belief that Mr. Robinson was a liar and that Mr. Clifford's testimony was therefore invalid. Mr. Jividen, Chairman of the Panel asked Mr. Clifford if he were aware that Mr. Robinson told a court in Kentucky that he didn't have an alcohol problem [Tr. 56];² or that he lied to the Kanawha County Court by stating that he didn't have a drug or alcohol problem [Tr. 57]. He then asked Mr. Clifford:

If he answered a question in front of Judge Bloom, a written question that he never had a problem with alcohol in June of 2010, that would be contrary to what he told you in April of 2010?

[Tr. 59].

Mr. Jividen mischaracterized this evidence. At Mr. Robinson's plea taking hearing, Judge Bloom asked a series of questions to determine competency to plead and voluntariness. The pertinent ones were:

The Court: Have you ever been hospitalized for mental illness?

The Defendant: No, sir.

The Court: How about drug or alcohol addiction?

² Counsel was unable to locate any reference in ODC Ex. 1, documents from Kentucky proceedings, to Mr. Robinson's alcohol usage.

The Defendant: No, sir.

The Court: Are you currently under the influence of any durgs or alcohol?

The Defendant: No, sir.

ODC Ex. 14, Bates No. 701]. The Hearing Panel Recommended Decision repeats this mischaracterization that Mr. Robinson told the Kanawha County Circuit Court that he didn't have a problem with alcohol. [Page 15].

As Mr. Clifford explained at the hearing, it was his initial diagnosis that Mr. Robinson had a history of alcohol abuse in remission, which is not the same thing as alcohol addiction. Moreover, Mr. Robinson did not see Mr. Clifford's notes during the criminal proceedings and would not have even known the diagnosis of alcohol abuse. Mr. Robinson reported to Mr. Clifford heavy alcohol consumption that he voluntarily terminated without a problem. It was not untruthful for him to say he did not have an alcohol addiction in a plea taking hearing, the purpose of which was to determine the voluntariness of the plea.

The Hearing Panel Recommended Decision more accurately noted an inconsistency between Mr. Clifford's notes and the report by psychiatrist Dr. Ralph Smith, to whom the Circuit Court sent Mr. Robinson prior to sentencing. He was reported as sating that "He occasionally drank alcohol in the past before being placed on home confinement, but it was never a problem." [ODC Ex. 11, Bates No. 763]. But this inconsistency has to be placed in context. Mr. Robinson was being evaluated to aid the Court in making an appropriate sentence. The focus was on his "dangerousness and/or general psychological state." Mr. Robinson's alcohol consumption in the past was not pertinent. Mr. Robinson was not drinking on the night of the crime, December 2, 2009; nor was alcohol consumption a

factor with respect to the wanton endangerment charge in Kentucky or any other legal problem Mr. Robinson experienced. He didn't claim in this disciplinary proceeding or in any other proceeding that alcoholism or alcohol consumption was to blame. From this perspective, his statement to Dr. Smith that his alcohol consumption was "not a problem." is understandable. What is less understandable is the Hearing Panel's emphasis on this issue.

The Panel also rejected Mr. Clifford's testimony and opinion that Mr. Robinson had made a lot of progress during his counseling, because the Respondent had not told him about the Kentucky wanton endangerment charge. Mr. Clifford acknowledged this omission during direct examination and testified that it did not change his opinion. He pointed out that Mr. Robinson had successfully separated from his wife under difficult circumstances without a confrontation while in counseling with Mr. Clifford.

However, the Panel viewed Mr. Clifford as an expert hired for the purpose of offering an expert opinion on interim rehabilitation at the disciplinary hearing, rather than a counselor testifying as to the history of his counseling sessions with Mr. Robinson and basing his professional opinion that Mr. Robinson had made a lot of progress on his anger issues upon those sessions and his interactions with Mr. Robinson over 10 months. To the Panel members, the failure to mention the wanton endangerment issue invalidated Mr. Clifford's entire testimony. The laymember, Dr. Rufus, castigated Mr. Clifford:

You understand that the mandate for an expert witness is to base that opinion on sufficient reliable data? * * *Based on what you've heard just this morning, do you think you based your opinion on sufficient reliable data?

[Tr. 67-68]. Mr. Jividen likewise rejected the distinction, responding to the undersigned's argument:

You want [Mr. Clifford] to come here and say what Mr. Robinson said to him, and you think that's a fact witness? That's inadmissible. That's hearsay.

[Tr. 72].

The issue of Mr. Robinson's candor with Mr. Clifford and Dr. Smith is, in fact, a red herring. Mr. Robinson told Mr. Clifford about heavy alcohol consumption but didn't talk about the Kentucky charge. Mr. Robinson told Dr. Smith about the Kentucky charge but characterized his drinking as occasional. [*Id.*, Bates No. 765]. There was no consistent effort to conceal negative facts.

During Mr. Robinson's testimony, the Panel continued to express its hostility, again attempting to undermine his credibility with misstatements. Mr. Robinson testified that he heard breaking glass while upstairs. By the time he got down, Mr. Gump was inside the house with a concrete planter that had been on the porch. Pictures taken afterwards shows several panes of glass broken, the door frame damaged and the lock broken. Mr. Robinson assumed that Mr. Gump had broken the windows in an attempt to unlock the door, but was not downstairs at the time. The door frame and lock were damaged and Mr. Robinson believes that Mr. Gump used the planter to force the door open. [Tr. 159-166].

Mr. Jividen concluded from viewing the pictures that the height of the broken panes were inconsistent with someone trying to unlock the door and consistent with Mr. Robinson breaking the panes while raising the baseball bat to strike Mr. Gump.³ At one point, he said to the Respondent, "You don't want to tell the truth here, do you?" [Tr. 419].

When the Respondent testified that he pled guilty to the wanton endangerment charge in Kentucky, Mr. Jividen shot back, "Not according to the docket sheet. . .said you

³ To be discussed *infra*.

entered an *Alford* plea.” [Tr. 412]. Mr. Jividen asked Mr. Robinson whether an *Alford* plea required memory problems, drug usage or lacking capacity to know what happened. This is an incorrect statement of the law. An *Alford* plea is merely a plea of guilt that contains no factual admission by the defendant. As described by the Supreme Court in the *Alford* case, a defendant may intelligently conclude that his interests require entry of a guilty plea and the record contains strong evidence of guilt. *U. S. v. Alston*, 611 F.3d 219, 227 (4th Cir. 2010), citing *North Carolina v. Alford*, 400 U.S. 25 (1970). See also *Pettiway v. Com.*, 869 S.W.2d 766, 767 (Ky. 1993) (although an *Alford* plea cannot be used as an admission of guilt under the Kentucky Rules of Evidence, it is a guilty plea that can be used to enhance a sentence as a first-class persistent felony offender).

Another example of this hostility and misstatement of law is when Mr. Robinson testified that he treated the \$1,117.35 from a State Farm insurance check to be a fee for legal services other than the property damage matter or the estate matter. He provided a receipt that David Gump signed. Mr. Jividen asked him whether he was ethically required to have a written agreement with a client whether charging an hourly fee or a contingent fee. Mr. Robinson responded that the undersigned had told him that a written fee was not ethically required for an hourly fee agreement. Mr. Jividen stated that was incorrect, commenting “Well, we have an LEO on it.” [Tr. 379]. Rule 1.5(b) of the Rules of Professional Conduct requires a lawyer to disclose the basis or rate of fee he or she will charge, “preferably in writing.” The undersigned is unaware of any legal ethics opinion from the Lawyer Disciplinary Board or the former Committee on Legal Ethics that makes it *per se* unethical for a lawyer not to use a written fee statement unless the fee is

contingent.

At another point while Mr. Jividen was questioning Mr. Robinson, he would not let him explain something about Kentucky's legal process despite the latter's repeated requests. [Tr. 430]. While one expects such conduct from an opposing counsel, it is unexpected from someone functioning as an administrative law judge.

The Hearing Panel also rejected Mr. Robinson's testimony that he told David Gump on December 2, 2009 that he no longer would represent him based upon the fact that Mr. Robinson identified Mr. Gump as his client during his call to 911 and called the Office of Disciplinary Counsel shortly after December 2 for advice on how to return papers to Mr. Gump, who was at that time under arrest for assault and burglary. [See also Tr. 318]. This ignores the fact that withdrawal from a client's legal matter that is not before a tribunal cannot simply be accomplished by telephone conversations.

The Panel's treatment of Mr. Robinson's evidence concerning Robert Willis's e-mail highlights the arbitrariness of its findings. Mr. Robinson sought to refute the obstruction of justice charge in the indictment, since it was referenced in the Petition to Annul, and the Office of Disciplinary Counsel submitted the entire file in the criminal prosecution.

Robert Wills, a neighbor of the Robinsons, had testified at David Gump's preliminary hearing that he witnessed the front door window panes being broken by Mr. Robinson as he raised his bat over his head to swing down on Mr. Gump. Sometime afterwards, in January, 2010, Mr. Wills encountered Mr. Robinson in front of the latter's house and they had a conversation. Mr. Wills had commented on the front door being fixed, but he was referring to the outer storm door. Mr. Robinson showed him that it was the inner door's window panes that had been broken and that the storm door automatically closes unless

propped open. It would not have been possible for Mr. Robinson to break the windows of the inner door during the conflict, because the storm door had not been propped open. [Tr. 171].

From the conversation, Mr. Wills realized that he had been mistaken in his testimony. Mr. Robinson asked Mr. Wills to prepare some form of a written statement to that effect. Mr. Wills e-mailed a statement to Mr. Robinson on January 28, 2010. Mr. Robinson printed it out and had Mr. Wills sign it on February 4, 2010 in the presence of Wendy Robinson. [R Ex. 1]. Mr. Robinson gave the signed copy to law enforcement, who took the position that Mr. Robinson had faked the e-mail. This was the basis of the obstruction of justice charge in the indictment.

Mr. Robinson's criminal defense attorney, Charles Hamilton, had a subpoena issued to Suddenlink Communications for the name of the subscriber of the sender of the e-mail, in other words, whose e-mail account was used. The target number or IP address used by the e-mail sender on January 28, 2010 was 173.81.108.147. Mr. Hamilton explained that Wendy Robinson had provided him with the IP address to subpoena. Suddenlink Communications responded to the subpoena with the information that the subscriber was Carl Wills at 33 Miriam Avenue, Saint Albans, West Virginia 25177. [R Ex. 1; testimony of Charles Hamilton]. This evidence was actually produced on April 20, 2010, one day after Mr. Robinson pled guilty to unlawful wounding and was no longer needed, since the obstruction of justice charge was dismissed.

At the disciplinary hearing, Mr. Robinson demonstrated to the Hearing Panel how he obtained the IP address of the e-mail from the header information by logging on to his gmail account, bringing up the Wills's e-mail and clicking on "show header". He printed the

header information on April 27, 2011, and the undersigned sent it to the Hearing Panel to supplement Respondent's Exhibit 1. Mr. Robinson also testified that it was his understanding that Carl Wills was Robert Wills's brother.

Regardless of the exact relationship, the fact that the Robert Wills e-mail was sent from a computer belonging to someone whose last name is also Wills negated any accusation that Mr. Robinson faked the e-mail. This information is very important since it not only negated the obstruction of justice charge, but it supported Mr. Robinson's claim that Mr. Gump broke the window panes, not Mr. Robinson with his bat.

Yet, the Hearing Panel was hostile to the presentation of this evidence. Mr. Jividen ruled that Mr. Robinson could testify about receiving the e-mail, but could not testify about conversations that he had with Mr. Wills saying he testified incorrectly, even though it was necessarily part of the explanation as to why Mr. Robinson received the e-mail. [Tr. 175]. Moreover, the Hearing Panel accepted the hearsay testimony of the Office of Disciplinary Counsel's witnesses as to why they charged Mr. Robinson with obstruction of justice:

Mr. Schulenberg: I just recall detectives telling me that Mr. Wills did not send that email. [Tr. 469].

Mr. Giggenbach: [Mr. Wills] said "No, I did not send this e-mail." [Tr. 562].⁴

Mr. Jividen seemed to dismiss this documentary evidence, because Mr. Robinson didn't call Robert Wills or Carl Wills to testify. [Tr. 622, 628]. Robert Wills had already denied sending the e-mail, and it would not have been appropriate to call him just to impeach his

⁴ In fact, Mr. Giggenbach's testimony is replete with hearsay testimony of what witnesses told him or what they would have testified to at trial, but the Panel did not stop him. For example, he recounted what Mr. Gump's mother would have testified at a trial as to why David Gump had given the check to Mr. Robinson.

testimony.

The Hearing Panel's Recommended Decision rejected this evidence with the following cryptic explanation:

This e-mail is not convincing to the Panel as to mitigating against punishment since it can have both a positive and negative connotation in this matter; it would have been beneficial to hear testimony from Mr. Wills on this matter, but Mr. Schulenberg was clear that Mr. Wills was adamant that he did not send the e-mail.

[Page 9]. The Panel rejected objective evidence provided by a third-party in favor of hearsay evidence provided by one of ODC's witnesses.

Given this bias, it is not surprising that the Panel also prohibited Mr. Robinson from introducing an Affidavit of Wendy Robinson executed on June 5, 2009 concerning the events occurring on May 12, 2009, the source of the wanton endangerment charge. It was tendered as Exhibit R 3. Mr. Robinson testified that the Affidavit was prepared in an attempt to get the charge dismissed. After he pled guilty, he filed the Affidavit in the Fayette County Circuit Court on January 14, 2010 for sentencing consideration. The docket sheet had an entry "Document Filed MISCELLANEOUS *DEFT SUBMISSION RE: SENTENCING*". [Tr. 213-14; ODC Ex. 1, page 6 of 7].

The Office of Disciplinary Counsel objected to the Affidavit. There was a discussion with respect to when the Affidavit was produced in discovery. Ms. Cipoletti acknowledged there was confusion by both counsel who thought that it was part of the entire file obtained from either the Kanawha County criminal file or the Kentucky criminal file [ODC Exs. 2 and 11]. Prior to the hearing, the undersigned had called the Fayette County Kentucky Circuit Clerk, who searched the file and could not locate the document listed on the docket sheet.

Mr. Robinson located a copy from his records, which was submitted in the evidentiary notebooks to the Hearing Panel prior to the hearing.

While discussing the Affidavit's admission, Mr. Jividen stated he was bothered by the fact that it was in direct contravention of three statements Wendy Robinson gave on the day of the incident as well as the statement given by the neighbors. [Tr. 18-10]. However, it was consistent with Mr. Robinson's version of events, and his *Alford* plea cannot be considered an admission under Kentucky's Rules of Evidence.

Although the undersigned could not locate where Mr. Jividen made the ruling to exclude the Affidavit, she has a specific recollection that the basis of the ruling was that it was inadmissible under the Rules of Evidence unless it had been part of a court file and there was no evidence that it had been part of the Kentucky file. The basis was not because it had been produced late, as stated in the Recommended Decision. In light of the fact that the Hearing Panel considered unsworn statements as part of the police's investigative file, in fairness it should have permitted Mr. Robinson to enter the Affidavit.

II. The Hearing Panel should have recommended that Mr. Robinson's period disbarment begin from the date of his suspension, March 15, 2010.

The Supreme Court suspended Mr. Robinson's law license on an emergency basis when he was incarcerated on the malicious wounding charge under Rule 3.27 of the Rules of Lawyer Disciplinary Procedure. The rule anticipates a prompt resolution of the disciplinary charges:

(d) Unless otherwise provided, interim suspension of a lawyer pursuant to this rule shall take effect immediately upon entry of the order by the Supreme Court. A hearing on formal charges against the suspended lawyer shall be conducted by a Hearing Panel Subcommittee, unless continued for good cause shown, within ninety days after the effective date of suspension.

Depending upon the individual circumstances, however, there may not be a resolution for several years. See, e.g., *Lawyer Disciplinary Counsel v. Albers*, 219 W. Va. 704, 639 S.E.2d 796 (2006). This is the situation here.

Although an annulment has no time limitation, a lawyer may apply for reinstatement “[a]fter the expiration of five years from the date of disbarment. . . .” Rule 3.33(b) of the Rules of Lawyer Disciplinary Procedure. In this case, Mr. Robinson has already been without his law license for 30 months. The date of disbarment, for purposes of Rule 3.33(b), should be considered March 15, 2010 instead of the date on which this Court will issue its opinion.

CONCLUSION

Mr. Robinson’s evidence of the circumstances surrounding his conviction of unlawful wounding, of his remorse, lack of prior disciplinary record and interim rehabilitation warranted a three year suspension, starting from the date of his suspension by the Court of March 15, 2010. If the Court finds otherwise, it should consider the date of disbarment to be March 15, 2010 for purposes of determining when Mr. Robinson is eligible for petitioning for reinstatement.

JOSHUA M. ROBINSON

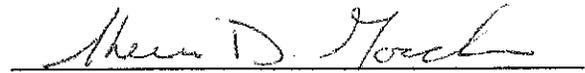
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CERTIFICATE OF SERVICE

I, Sherri D. Goodman, do hereby certify that the within document, "Brief of the Respondent, Joshua M. Robinson", was served upon Rachael L. Fletcher Cipoletti, Chief Lawyer Disciplinary Counsel, by e-mail in pdf this 17th day of September, 2012 at the following address:

rfcipoletti@wvdc.org

A handwritten signature in cursive script, reading "Sherri D. Goodman", is written above a horizontal line.

Sherri D. Goodman, State Bar No. 1090