

IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

Memorandum Order

IN RE: SCOTT P. MASON

Rule to Show Cause in Contempt
Pre-Petition Matter 07-153 (State v. Glenn Tanner)

FILED

March 5, 2010

released at 10:00 a.m.
RORY L. PERRY II, CLERK
SUPREME COURT OF APPEALS
OF WEST VIRGINIA

On November 12, 2009, this Court issued an order directing attorney Scott P. Mason to show cause, if any he can, why he should not be held in contempt of this Court. Having failed to respond to the rule to show cause in any manner, and for the reasons more fully set forth in this Memorandum Order, we are of the opinion that Scott P. Mason, West Virginia Bar No. 9086 is in contempt of this Court. This contempt finding is hereby certified to the Office of Lawyer Disciplinary Counsel for due consideration in connection with the ongoing disciplinary matter, and this matter is hereby dismissed from the docket of this Court.

Following a jury trial in the Circuit Court of Clay County, Glenn Tanner was found guilty of the felony offense of grand larceny and was sentenced to not less than one nor more than ten years in the penitentiary on January 18, 2005. The circuit court appointed attorney Scott Mason to represent Mr. Tanner on appeal. After several unsuccessful attempts to contact his attorney, Mr. Tanner filed a *pro se* "motion for resentencing" in this Court on October 1, 2007. In the motion, Mr. Tanner complained that his counsel had refused to contact him and that he had been denied his right to appeal. He asked to be re-sentenced in order to file an appeal. Mr. Mason did not respond to the *pro se* motion.

On December 9, 2008, this Court entered an order directing Mr. Mason to file a response to the *pro se* motion within thirty days. Despite being ordered to do so, Mr. Mason did not file a response.

On October 8, 2009, this Court granted Glenn Tanner's *pro se* motion for re-sentencing and remanded the matter to the circuit court for that purpose, and for appointment of counsel other than Scott Mason for purposes of filing an appeal.

Thereafter, the Clerk obtained a copy of the Official Certificate of Discharge from the West Virginia Parole Board certifying that Glenn Tanner had been discharged from parole on April 27, 2009. Accordingly, on November 12, 2009 two orders were entered. In the first order, we again remanded the matter to the circuit court for appointment of counsel, other than Scott Mason, to contact and discuss with Mr. Tanner his rights on appeal and to pursue the same if directed to do so by Mr. Tanner. In the second order, at issue herein, we issued a rule to show cause in contempt against Scott Mason, and directed him to appear before the Court on February 10, 2010, and show cause why he should not be held in contempt. The rule to show cause was mailed to all addresses provided by the West Virginia Bar and the Office of Disciplinary Counsel. Mr. Mason failed to appear on February 10, 2010 and has not responded to any of the orders of this Court.

For the foregoing reasons, we hereby find attorney Scott P. Mason, West Virginia Bar No. 9086 to be in contempt of this Court. This contempt finding is hereby certified to the Office of Disciplinary Counsel for due consideration in connection with pending lawyer disciplinary matters of Lawyer Disciplinary Board v. Scott Mason, (S.Ct. No. 35432) and Office of Disciplinary Counsel v. Scott Palmer Mason, (S.Ct. No. 35453). The Clerk is directed to provide a copy of this Order to Chief Lawyer Disciplinary Counsel. It is finally ordered that this matter is hereby dismissed from the docket of this Court.

Contempt finding imposed.
Matter dismissed.