

No. 19211 - The Committee on Legal Ethics of the West Virginia State Bar v. John L. Boettner, Jr., an active member of the West Virginia State Bar

Brotherton, Justice, dissenting:

I dissent to the majority opinion for a number of reasons.

The Committee on Legal Ethics of the West Virginia State Bar recommended on two separate occasions that John L. Boettner, Jr.'s license to practice law be annulled as a result of his guilty plea to a felony in the United States District Court for the Southern District of West Virginia.<sup>1</sup>

In the first hearing, The Committee on Legal Ethics of the West Virginia State Bar v. Boettner, 183 W.Va. 136, 394 S.E.2d 735 (1990), this Court remanded the case to the State Legal Ethics Committee for a mitigation hearing. I dissented to the remand for a mitigation hearing in Boettner, supra, and I also dissented to the mitigation standards which were established in The Committee on Legal Ethics of the West Virginia State Bar v. Craig, \_\_\_ W.Va. \_\_\_, 415 S.E.2d 255 (1992).

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<sup>1</sup>As part of his plea agreement, two other charges against Boettner which had been investigated by the United States Attorney were not pursued.

The guidelines established in the Boettner remand and the mitigation standards established in the Craig case resulted in the Legal Ethics Committee's second recommendation that Boettner's law license be annulled. However, after a review of the recommendation and the mitigation record, a majority of this Court reduced the recommended annulment to a three-year suspension. I cite my previous dissents in Boettner and Craig as the reason for my dissent in this case.

This case appears to continue to uphold the new standard adopted by a majority of this Court, that of holding lawyers to a standard of mediocrity rather than a standard of excellence.