No. 16-0003 - *LDB v. Lauren Thompson*

Loughry, C. J., dissenting:

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Never before has this Court been faced with a lawyer disciplinary case of this nature. While it is commonplace for this Court to determine the appropriate discipline for attorneys who fail to act timely or zealously, there is almost always a cogent explanation offered for such conduct. Disorganization, lack of adequate support, case or practice management issues, personal issues, or simple neglect essentially form the universe of proffered explanations. While none of these serve to "excuse" lawyer misconduct, they at least provide a rational context for the conduct we are obligated to examine. In the instant case, however, the respondent's willful refusal to timely file briefs on behalf of her infant client, despite multiple court orders to do so, defies any rational explication. Moreover, the myriad and ever-evolving justifications offered by the respondent range from half-hearted to confounding to infuriatingly ill-conceived, to put it mildly. Despite the respondent's protestations to the contrary, this case involves more than a mere failure to file or comply with a court order: it involves a complete, willful abdication of an attorney's duties to the most vulnerable client known to our judicial system, under circumstances where that client was most in need of representation. Accordingly, I respectfully dissent.

By way of factual background, the respondent was appointed as guardian ad litem for an infant in abuse and neglect proceedings which resulted in the termination of the

biological mother's and father's parental rights. The termination of each parent's rights was separately appealed, and the briefing schedules entered by this Court required the respondent to file a response brief in each of the two appeals by May 20, 2015. After the respondent failed to do so, this Court's Clerk's Office telephoned the respondent to advise that her briefs were past due. Receiving no response to that telephone inquiry, this Court issued a Notice of Intent to Sanction and Amended Scheduling Order requiring the respondent to file briefs on behalf of her infant client by June 1, 2015. After the respondent again failed to file her briefs, the Clerk's Office emailed her on June 5, 2015, to advise of the Notice of Intent to Sanction; the respondent replied that she had "no idea what is going on" and would "figure out what has happened today."

On June 11, 2015, this Court issued a rule to show cause returnable for September 2, 2015, unless sooner mooted by the filing of compliant briefs. The Clerk's Office then called the respondent on *five* separate occasions prior to September 2; *none of the calls were returned*. On September 1, 2015, the respondent finally filed her response briefs along with a motion for leave to file out of time that blamed staffing issues and calendaring errors. Just two weeks prior, however, she told the circuit court that she had not filed the briefs because she was "irritated" about "other issues" *unrelated to this child client's case*.

Another rule to show cause was issued returnable on September 16, 2015; the respondent filed a faxed response on September 9, this time blaming her refusal to file her briefs on "action and inaction" by the Mingo County DHHR and stating that "[i]n an effort to get my concerns before an alternate Court, the undersigned refused to file a Response in the above referenced case." The respondent then went on to promptly abandon this premise and boldly criticize the Court for accepting appeals by parties (presumably the biological mother and father) who were not "active, willing participants" and offering her brazen recommendation that "additional measures should be implemented prior to accepting petitions of disinterested parties for review." She complained that somehow the Court's hearing of appeals filed by parties' attorneys without the parties' written endorsement was "not realistic" and did not make "economic sense." Not satisfied with the presumptuous position taken in her response, the respondent attached her own affidavit stating that she "was advised that this was not a good way to go about [resolving the issues at the Mingo County DHHR]" but complaining that the DHHR's actions had left her "enraged" and she hoped her position would not be viewed as "foot-stomping" and "whining."

On September 16, 2015, the respondent appeared before this Court and feebly reiterated to the Court that she had intentionally refused to comply with the Court's orders because she wanted a forum with the Court to air her grievances against the Mingo County DHHR. Following argument on the rule to show cause, the respondent, still blithely unaware

of her continued inappropriate behavior, wrote to this Court citing her "sense of moral indignation" for her actions and complaining that the underlying case involved "just a missed deadline," but that her "heels were dug in[.]" She explained that she refused to respond to this Court's telephone inquiries because she had "made it clear what I intended to do" and was "worried that I would make it a confrontation." She was careful to conclude that despite her appearance at the Court, "oral argument is something I believe I excel at[.]" The Court thereafter found the respondent in contempt and ordered that she be prohibited from accepting court appointments pending an investigation by the Office of Disciplinary Counsel ("ODC") and the resolution of any disciplinary action. In her written response to the formal disciplinary Statement of Charges, the respondent shockingly denied that she "knowingly disobeyed her obligation to the Court," chalking up her contemptuous conduct as a "bad decision."

I.

Before addressing the respondent's conduct and the discipline I believe to be warranted, this case demands a reiteration of what I trust will be the final warning to that small, yet unrelenting portion of the Bar who continue to disregard this Court's instructions regarding their obligations when serving as guardians ad litem in abuse and neglect matters. Rule 18a of the Rules of Procedure for Child Abuse and Neglect require guardians ad litem to fully comply with the "Guidelines for Children's Guardians *Ad Litem* in Child Abuse and

Neglect Proceedings," as set forth in Appendix A of the Rules. The Guidelines provide that the Rules of Professional Conduct apply to the representation and painstakingly outline the guardian's duties at each stage of the proceedings. The Guidelines explain that with respect to post-dispositional representation, the guardian ad litem must

> [a]ctively participate and timely file a response in any appeal, extraordinary writ, modification, or action ancillary to the abuse and neglect proceeding including proceedings to address the disruption of a permanent placement which affect the recommendations of the GAL. If an appeal is filed by another party in an abuse and neglect case, the GAL is required to file a respondent's brief or summary response that adheres to the requisite provisions of Rule 11 of the Rules of Appellate Procedure.

Appendix A, Section E(3). Additionally, Rule 52(g) of the Rules of Procedure for Child Abuse and Neglect cautions that "[t]he duties and responsibilities of a child's guardian ad litem shall continue until such child has a permanent placement, and the guardian ad litem shall not be relieved of his responsibilities until such permanent placement has been achieved."

Moreover, this Court has *repeatedly* instructed guardians ad litem of the full scope of their duties to their infant clients. *See State v. Michael M.*, 202 W.Va. 350, 356 n.11, 504 S.E.2d 177, 183 n.11 (1998) ("We again underscore that guardians ad litem have a duty to fully represent the interests of their child wards at all stages of the abuse and/or neglect proceedings, both in the circuit court and on appeal."); *In re Katie S.*, 198 W.Va. 79,

91 n.16, 479 S.E.2d 589, 601 n.16 (1996) ("Part of [the guardian ad litem's] representation is to file an appellate brief to insure that [his or her] clients' interests are presented."); *In re Christina L.*, 194 W.Va. 446, 454 n.7, 460 S.E.2d 692, 700 n.7 (1995), ("[I]t is [the guardian ad litem's] responsibility to represent [his or her] clients in every stage of the abuse and/or neglect proceedings. This duty includes appearing before this Court to represent the child during oral arguments."); Syl. Pt. 5, *James M. v. Maynard*, 185 W.Va. 648, 408 S.E.2d 400 (1991) ("The guardian ad litem's role in abuse and neglect proceedings does not actually cease until such time as the child is placed in a permanent home."). After continued disregard of these instructions, the Court once again recently observed:

> The Court continues to observe an increasing pattern of inadequate and untimely filings made by guardians ad litem in abuse and neglect appeals. . . . *[W]e wish to re-emphasize how vitally important it is for guardians ad litem to comply with Rule 11(h) of the Rules of Appellate Procedure and this Court's orders in a timely fashion so that abuse and neglect appeals can be promptly and efficiently resolved.* Guardians ad litem must submit a response brief or summary response that specifically responds to each of the assignments of error raised on appeal. Also, if the appendix lacks documents from the record that are essential for the Court's review of the case, it is the guardian ad litem's obligation to file a motion to supplement the appendix to ensure that the necessary parts of the record below are included on appeal.

In re B.L., No. 14-0660, 2015 WL 3631681, at *2 (W.Va. June 10, 2015) (memorandum decision) (emphasis added).

The reasons for the Court's frustration are manifest. We have made clear to the lower courts and practitioners alike that "[c]hild abuse and neglect cases must be recognized as being among the highest priority for the courts' attention. Unjustified procedural delays wreak havoc on a child's development, stability and security." Syl. Pt. 1, in part, *In the Interest of Carlita B.*, 185 W.Va. 613, 408 S.E.2d 365 (1991). Moreover, "matters involving the abuse and neglect of children shall take precedence over almost every other matter with which a court deals on a daily basis, and . . . such proceedings must be resolved as expeditiously as possible." *Id.* at 616, 408 S.E.2d at 368, syl. pt. 5, in part. The paramount reason for this need for prioritization is to establish, as expeditiously as our system will allow, permanency for the children whose lives have been placed into unimaginable turmoil by such proceedings. As Justice Workman eloquently stated more than twenty years ago:

> [T]he early, most formative years of a child's life are crucial to his or her development. There would be no adequate remedy at law for these children were they permitted to continue in this abyss of uncertainty. We have repeatedly emphasized that children have a right to resolution of their life situations, to a basic level of nurturance, protection, and security, and to a permanent placement.

State ex rel. Amy M. v. Kaufman, 196 W.Va. 251, 257, 470 S.E.2d 205, 211 (1996). It is therefore clear that any delays not demanded by due process cannot and will not be tolerated in the context of abuse and neglect proceedings.

With regard to those attorneys representing infant clients in these proceedings, this Court has aptly observed that involvement in abuse and neglect proceedings commands "wisdom, compassion, and the strength to protect the children to the greatest degree possible from physical and emotional harm, and to create stability and safety." *In re N.A.*, 227 W.Va. 458, 471, 711 S.E.2d 280, 293 (2011). Certainly, the overwhelming majority of practitioners who dedicate themselves to accepting guardian ad litem appointments handle these matters with precisely the wisdom and compassion contemplated. Without their considerable experience, judgment, and perspective, our system would be wholly unable to remedy one of our most destructive societal evils–the abuse and neglect of children. These practitioners inherently understand what Justice Rehnquist stated so well:

> A stable, loving homelife is essential to a child's physical, emotional, and spiritual well-being. It requires no citation of authority to assert that children who are abused in their youth generally face extraordinary problems developing into responsible, productive citizens. The same can be said of children who, though not physically or emotionally abused, are passed from one foster home to another with no constancy of love, trust, or discipline

Santosky v. Kramer, 455 U.S. 745, 788-89 (1982) (Rehnquist, J., dissenting). It is because of these practitioners' Herculean efforts that the respondent's conduct, and those who similarly neglect their guardian ad litem obligations, is so offensive. It is in deference to these dutiful and conscientious practitioners that the conduct at bar commands a harsher sanction, as discussed more fully below.

II.

The foregoing gives proper context to the demonstrably outrageous conduct of the respondent. As indicated above, the respondent failed to file briefs on behalf of the infant for more than three months and in the face of numerous orders and contacts requiring her to do so. Since the matter was stayed in the circuit court pending appeal, the permanency plan of adoption of the infant could not go forward. The respondent initially blamed staffing problems and calendaring mistakes for her failure to file her briefs. When pressed, however, the respondent admitted that she willfully refused to file her responses under some misguided belief that, by acting in contempt of this Court's orders, she would be granted an audience with the Court to address neither the merits of the underlying appeals nor her own malfeasance, but systemic issues she perceived within the Mingo County DHHR. Incredibly, at a status conference in the underlying matter held just prior to the scheduled return on the rule to show cause order, the respondent demonstrated her inexplicably ardent belief that the rule to show cause was some sort of invitation by this Court to appear and edify us about her perceived concerns with the DHHR. After announcing that she had yet to file her response briefs, the following exchange occurred in circuit court:

> Respondent: Judge, as I've probably mentioned before, I'm agitated on other issues. They've invited me to come up and speak to the Supreme Court, which I'm tempted to–
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> The court: They've invited you or told you to?

Respondent: If it's not done by a certain date, then I can come on up. I don't know–it's like *this case isn't impacted by the reason I'm dragging my feet. I should probably just submit it*, but you know, I've had–last week I had a child that should have her college paid for not get Chafee funds because the Department won't do their job and it's like–

(Emphasis added). After explaining that the circuit court could not advance the matter toward permanency for the infant because the case was stayed pending appeal, the circuit court directed the respondent to file her appellate briefs:

The court: . . . But get that filed because they will sanction you.

Respondent: I know.

The court: Because they have written me saying they're going to.

Respondent: They've offered–

The court: And I don't know, I was never officially sanctioned by them.

Respondent: *I don't think they're going to officially sanction me.* They just–

The court: I doubt it, but they've got to do something.

Respondent: They do and I think–I think they need to talk to me.

The court: So if you don't file a response and if I can't get this thing ruled I will sanction you.

(Emphasis added). The hubris of a young attorney can justify forgiveness of a great many missteps, but arrogantly flouting the repeated orders of the State's highest Court, to the detriment of a child, is not one of them.

Before the Hearing Panel Subcommittee ("HPS"), the ODC introduced evidence of how the respondent executed her scheme in circuit court. The adoptive father–who had fostered the infant since the child was four months old–testified that the respondent advised him she "had not filed her brief because she was trying to make a point in another case that she was involved in" and stated "I'm sorry. You know, but I'm trying to make a point." The cavalier attitude of the respondent regarding her conscious refusal to comply with directives of the Supreme Court is astonishing, to say the least. Moreover, her utter disregard for the delay suffered by her infant client in being adopted by a loving family due to matters *wholly unrelated* to the infant's case, is virtually unbelievable.

The respondent's cavalier scheme caused injury to her infant client and the child's prospective adoptive family. In response to questioning by counsel for ODC, the adoptive father explained the effect the uncertainty caused by the respondent's delay had on their family:

> Q. Okay. How did that [the respondent's failure to file the briefs] make you feel?

> A. Disappointed because any time you're–we were waiting to adopt this child and any kind of delay, it–you always worry. I mean you're–we're emotionally attached to the child and any delay, the longer it takes to get the adoption done, you just never know when something else is going to come up and potentially have them taken from your home or taken from your life.
> . . . .
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> The longer you wait, there's always a chance of an aunt or an uncle that you didn't think or didn't know about to step in and say, hey, we'll adopt. I mean even the assurance that you get, this child is not going anywhere, you never know.

The adoptive father further testified that the infant, who was born prematurely, needed surgery but because of the lack of permanency, the medical treatment and procedures necessitated extensive involvement of DHHR. The father explained further that vacation plans or out-of-town trips were made difficult, if not impossible, due to the need to involve DHHR. In this regard, the respondent obtusely testified "I hate that I have burdened them and made their summer not enjoyable."

Even more poignantly, the adoptive mother–who has cared for this child since he was four months old–emotionally testified that the "limbo" created by the delay prevented their family from fully bonding as a permanent unit: "It's just like he's mine, but he's not mine." She further explained the uncertainty and fears surrounding the delay in permanency:

> The child is not ours, he's not the parents', he's a ward of the state. That's not fair to him. You can't–let me think, okay, because this tears me up because I love him. You can't do

> anything with him. He has nobody. Anybody from his other family could've come in and said after two and a half years, three years, we want him and we're all he know. He is our baby. We're his mom and dad. It's his brothers and sisters and until the papers are signed, anybody can take my baby. You know, and how fair is that to him and to us when he's been ours for almost three years for somebody in her family or his family come and say we want him now. And until the papers are signed, that can happen, that can happen. And that's not fair to him. That's not fair to him at all and it's not fair to me at all and it's not fair to my five year old that that's his brother from the time he's come into this world, you know.
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> . . . .
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> [Respondent] turned around and said 'I'm sorry I had to use you all as an example, but somebody wasn't doing what they were supposed to do and–and we were pretty much the example.' . . . It hurt my feelings because it's not my fault somebody's not doing what they're supposed to do. I done what I was supposed to do. I was at every court hearing. I done took my baby to every doctor's appointment. I've done everything as a mother that I'm supposed to do. I–I mean it's not my fault. I mean she should've done what she was supposed to do.

The adoptive mother concluded that "I did not want to be here, I mean, but I don't want to lose my baby either. I mean he's–he is the air I breathe and I'm the air he breathes." Regarding this testimony, the ODC asked the respondent: "Did you understand from listening to the [adoptive parents'] testimony, the impact that you caused on them by the delays?" The respondent's astonishing and incredibly callous response was: "The impact on them are [sic] not my concern."[1] While the respondent paid lip service to her error and

[1]This attitude is consistent with the respondent's bizarrely skewed perspective throughout her representation of this child. Her response to the show cause order indicated that since the infant was two years old, "the action or inaction of the Guardian at the appeals

expressed general dismay over her actions, she continued to minimize her behavior by maintaining that only four months of the delay in achieving permanency was the result of her actions. In a flabbergasting lack of self-awareness, the respondent feigned concern about the fact that the adoption had not yet been finalized as of the date of her disciplinary hearing, but flippantly conceded: "So June, July, August, September, then we'll count October, those four months are on me. I did that. And I hate that I did that and it sucks."

Notwithstanding the excuses the respondent previously gave the circuit court and this Court, additional purported justifications for her behavior surfaced before the HPS. Both respondent's counsel and mother suggested that the respondent's handling of a wrongful death suit filed on behalf of her sister was to blame for her behavior. It is notable, however, that nowhere in the respondent's own written explanations does she cite this matter as contributing to her actions. In fact, in her seventy-nine pages of testimony before the HPS, the respondent unilaterally referenced her sister's death and lawsuit exactly once.[2] I am

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stage will [not] drastically impact his daily life or future with his foster family." She incredibly stated that because of his tender age, "whether or not paperwork has been finalized is not understood or comprehended at this time and will not positively or negatively contribute to his connection to the home due to his age and the family's awareness of the status of the respondents and the likely outcome of the appeal."

[2]The respondent stated simply "there had been so much that went on with [the Supreme Court brief] and my concern about–and I think heavily impacted by my sister, kids need to know their parents." On direct examination by counsel, the respondent was asked what effect the loss of her sister played in the matter, yet her response still centered on the issues with the DHHR: "I believe that knowing a kid could've had contact with his mom and through the things that weren't going down right at the Department, that's no longer a

entirely sympathetic to the respondent's family tragedy and, in fact, personal stressors are frequently raised as explanations for lawyer misconduct. However, where the offending lawyer herself fails to identify this as a contributing or mitigating factor, I am hard-pressed to lend such consideration much weight.

While the respondent failed to implicate her sister's wrongful death suit before the HPS, she did offer yet another explanation for her behavior, this time citing what can only be described as "second thoughts" about her termination recommendation. In testimony that is, at best, equivocal, and at worst, incomprehensible, the respondent seemed to suggest that because of the aforementioned alleged systemic inadequacies with the Mingo County DHHR, she had become distrustful of her original recommendations of termination in this proceeding. The respondent spoke at length about her client's biological mother and whether the DHHR had failed her, all the while acknowledging that she did not alter her recommendation for termination when she finally filed her briefs with this Court.[3] This

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possibility. . . . So it's just having your parent is very important."

[3]In her Answer to the ODC complaint, the respondent stated that by the time her briefs were due she "was no longer confident that I had made the right choice [to recommend termination] because the DHHR's work and word to me was [sic] no longer reliable." In the same document, however, the respondent later stated that "too much had transpired to believe Mom could be successful." In fact, the respondent's appellate briefs as to both the mother and father, filed well after the respondent's supposed concerns arose, fully supported termination without referencing any second thoughts.

newly-articulated rationale is disingenuous and contradicted by every action the respondent took.

Perhaps the most frustrating aspect of the respondent's conduct and testimony is her self-perceived heroism in the face of such absolute dereliction of her duties to her client and her utter lack of competency as a lawyer in general. Before the HPS, the respondent alternately testified as the foremost authority on all things abuse and neglect, yet she appeared to be intellectually stymied by the perceived lack of procedure to address her concerns with the DHHR. The respondent complained that she did not know how to utilize an extraordinary writ (as recommended by this Court in its memorandum decision on the Rule to Show Cause), despite a full discussion of it in the Bench and Bar practice treatise she boasted was downloaded onto her computer. More specifically, however, the respondent bemoaned the fact that she could not discuss the matter with her mother, the sitting Mingo County Circuit Court judge, due to confidentiality concerns. As should be apparent to even a casual observer, discussion of systemic and administrative issues within a State agency (which, if true, would be equally familiar to a sitting circuit judge) in no way implicates confidentiality concerns. If the issues at Mingo County DHHR were as pervasive and administratively-driven as the respondent suggests, there would have been no need whatsoever to disclose any case-specific, confidential information to at least discuss possible recourse with a sitting circuit court judge. Any sitting circuit court judge has, at his or her

fingertips, a wealth of support available through this body and its administrative arm to address concerns which may arise, particularly in the heavily-resourced juvenile arena. The respondent apparently made no attempt whatsoever to avail herself of available resources. For the respondent to suggest that her behavior is excused by an unselfish motive confounded by lack of access or resources is patently absurd.

III.

Having examined the respondent's inexplicable conduct to the extent discernible, the issue remains: what type of sanction is appropriate? The majority opinion empathizes with the respondent's loss of court-appointed work and the commensurate reduction in income as a result of the contempt order. However, in the opening paragraph of the respondent's brief to this Court in this disciplinary case, she indicated that she also "maintained a lively and profitable personal injury practice." The respondent also noted that she voluntarily changed her status to "inactive" with the West Virginia State Bar after she was held in contempt. Ostensibly before she became inactive, however, the respondent's answer to the ODC's complaint indicated that since eliminating court appointments, her "life and practice have improved dramatically." Therefore, any reduction in income occasioned by the temporary prohibition on court-appointed work would therefore appear to be the result of the respondent's inactive status and/or failure to augment other portions of her practice. Based on the respondent's own characterization of her practice, there is no reason why she

could not have modified it to increase her personal injury or other non-court-appointed practice areas to close any gap in business, thereby realizing a self-described "dramatic improvement" in her life and practice.

To that end, while pro bono and court-appointed work are a vital part of our legal system and such work is the affirmative obligation of every lawyer admitted to the Bar, it is likewise a privilege. Clients receiving court-appointed counsel have no right of selection; it is therefore the obligation of the judiciary to ensure that they are appointed competent representation. Attorneys admitted to practice before our Bar have no entitlement to court-appointed work and to the extent they structure their practice around such work, they are well-advised to ensure that they are qualified and diligent.

Moreover, particularly as pertains to guardians ad litem, practitioners must be mindful that "a guardian *ad litem* has a duty to represent the child(ren) to whom he or she has been appointed, as effectively as if the guardian *ad litem* were in a normal lawyer-client relationship." *Matter of Scottie D.*, 185 W.Va. 191, 198, 406 S.E.2d 214, 221 (1991). It is beyond cavil that attorneys representing infant clients must adhere to the highest possible standards of professional conduct and clothe themselves in the prescribed roles of advisor, advocate, negotiator, and evaluator. The "Guidelines for Children's Guardians ad Litem in Child Abuse and Neglect Cases" describe a guardian ad litem's minimal obligations to his

or her client and form an additional layer of appointment-specific duties and protections for the infant. *See* Rules of Procedure for Child Abuse and Neglect, Appendix A. The respondent's inexcusable actions failed her infant client when her representation was most critical. "The safety, well-being, and timely permanent placement of a child in an abuse and neglect proceeding are central to all aspects of a GAL's representation." *Id.*, Section A(1).

Returning now to the issue of an appropriate sanction, I wholly reject the application of other cases involving the failure of guardians ad litem to file timely briefs on the basis of simple neglect. As this Court has held:

> Rule 3.16 of the West Virginia Rules of Lawyer Disciplinary Procedure enumerates factors to be considered in imposing sanctions and provides as follows: "In imposing a sanction after a finding of lawyer misconduct, unless otherwise provided in these rules, the Court [West Virginia Supreme Court of Appeals] or Board [Lawyer Disciplinary Board] shall consider the following factors: (1) whether the lawyer has violated a duty owed to a client, to the public, to the legal system, or to the profession; (2) whether the lawyer acted intentionally, knowingly, or negligently; (3) the amount of the actual or potential injury caused by the lawyer's misconduct; and (4) the existence of any aggravating or mitigating factors."

Syl. Pt. 4, *Office of Lawyer Disciplinary Counsel v. Jordan*, 204 W.Va. 495, 513 S.E.2d 722 (1998). The respondent's conduct in this matter was intentional, highly detrimental to her client and others, and without rational justification. The emotional turmoil occasioned by her single-minded view of her own motivations is immeasurable. Moreover, the respondent continues to demonstrate a lack of understanding of the full impact of her dereliction of her

duties to her infant client and the bizarrely ill-conceived "mission" which held her client's permanency hostage.[4] The respondent's actions demonstrate not only a lack of competence, but a compounding and devastating lack of judgment that I hesitate to recommend returning to the legal community. This absence of judgment is demonstrated not merely in the underlying matter, but in the respondent's continued conduct throughout these proceedings in her written responses, oral presentation, and testimony. Unlike cases involving inadvertence, neglect, or even dishonesty, an absence of judgment is not easily remedied or susceptible to simple behavior modification.

As I indicated at the outset, the Court has not been presented with a lawyer disciplinary case involving even remotely comparable facts. While the respondent did not commit criminal activity, her conduct and stated rationale certainly escalates the discipline appropriate in a typical lack of diligence or competence matter. The ODC proffers that

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[4]Even before the HPS, the respondent remained fixated on the DHHR rather than her own malfeasance. She was apparently dismayed that this Court did not allow her to use the rule to show cause to vent about the DHHR:

> Q. Okay. And you heard Judge Cummings' testimony, saying that he told you not to proceed in this manner?
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> A. He did, but he gave me no alternative. It's like–you know, and I said that at the Supreme Court, too. Mennis [sic] Ketchum said, you know, we go through thousands of these every year, you just–you file your answer, you need to get these done, but then I'm like well, what solves what I'm complaining about?

Lawyer Disciplinary Board v. Hardin, 217 W.Va. 659, 619 S.E.2d 172 (2005), is comparable inasmuch as it resulted in a two-year suspension for a lawyer's consistent failure to follow court orders, resulting in the dismissal of a civil action with prejudice. While the refusal to comply with court orders is comparable, the respondent's actions resulted in delay rather than an extinguishment of rights. On the other hand, the client in this matter–an infant of tender years–and the heightened importance of the underlying abuse and neglect matter are somewhat offsetting of that incongruity. Moreover, the respondent's incomprehensible rationale for her actions is a significant aggravating factor, yet her relative inexperience in the practice of law mitigates. On balance, I believe the respondent's actions warrant an eighteen-month suspension, to be followed by two years of supervised practice, as well as the other sanctions adopted by the majority. Incredibly, however, the majority refuses to impose the most critical sanction, *i.e.*, the respondent's continued absolute prohibition on accepting court-appointed work in abuse and neglect and family law cases.

My opinion on the appropriate discipline for the respondent is based entirely upon her conduct throughout this matter and its impact, particularly given the serious nature of abuse and neglect matters. That being said, however, I would be remiss if I failed to note that lawyer discipline serves the equally important purpose of deterrence to other members of the Bar. *See* Syl. Pt. 3, *Committee on Legal Ethics v. Walker*, 178 W.Va. 150, 358 S.E.2d 234 (1987) ("In deciding on the appropriate disciplinary action for ethical violations, this

Court must consider not only what steps would appropriately punish the respondent attorney, but also whether the discipline imposed is adequate to serve as an effective deterrent to other members of the Bar and at the same time restore public confidence in the ethical standards of the legal profession.").

IV.

> Few could doubt that the most valuable resource of a self-governing society is its population of children who will one day become adults and themselves assume the responsibility of self-governance. A democratic society rests, for its continuance, upon the healthy, well-rounded growth of young people into full maturity as citizens, with all that implies. Thus, the whole community has an interest that children be both safeguarded from abuses and given opportunities for growth into free and independent well-developed . . . citizens.

Santosky, 455 U.S. at 790 (citations and internal quotation marks omitted) (Rehnquist, J., dissenting). Practitioners who conscientiously and dutifully engage in the vitally important work of protecting our children from abuses, and who help these children grow into independent, well-developed citizens, expect this Court to uphold the high standards of commitment and competence they demonstrate. To those children who tragically require these lawyers' services, this Court owes nothing less. Accordingly, I respectfully dissent.