

**BEFORE A HEARING PANEL SUBCOMMITTEE
OF THE LAWYER DISCIPLINARY BOARD
STATE OF WEST VIRGINIA**

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In Re: **C. MICHAEL SPARKS**, a disbarred member of
 The West Virginia State Bar

Bar No.: 7231
Supreme Court No.:23-71
I.D. No.: 23-06-058

**REPORT OF THE HEARING PANEL SUBCOMMITTEE REGARDING
THE REINSTATEMENT PETITION OF C. MICHAEL SPARKS**

I. PROCEDURAL HISTORY

Petitioner C. Michael Sparks (hereinafter "Petitioner") was admitted to the West Virginia State Bar on September 30, 1996. On or about October 10, 2013, the Office of Lawyer Disciplinary Counsel (hereinafter "ODC") filed a Petition for Annulment of Law License with the Supreme Court of Appeals of West Virginia and submitted Petitioner's affidavit consenting to disbarment pursuant to Rule 3.25 of the Rules of Lawyer Disciplinary Procedure. [Jt. Ex. 15, Bates 514-517].¹ Although the ODC had initiated an investigation regarding the conduct which led to Petitioner's consent to disbarment, formal charges were not pending at the time the petition was filed. On October 11, 2013, the Supreme Court of Appeals granted the aforesaid petition and annulled Petitioner's license to practice law in the State of West Virginia by voluntary consent. [Jt. Ex. 15, Bates 513]. Petitioner consented to disbarment in connection with an information issued on or about October 9, 2013, in the United States District Court for the Southern District of West Virginia charging Petitioner with a violation of 18 U.S.C. §242, deprivation of rights under the color of law,

¹ Joint Exhibits 1 through 15 are organized by Bates numbers in the top right-hand corner of the documents.

for depriving an individual, George White, of his right to counsel of his choice under the Sixth and Fourteenth Amendments to the Constitution of the United States.

On or about February 8, 2023, Petitioner, by counsel, Lonnie C. Simmons, filed a petition for reinstatement with the Supreme Court of Appeals of West Virginia, and the ODC commenced an investigation thereof. The ODC reviewed the petition and accompanying documentation, including copies of Petitioner's state and federal income tax returns for the years 2013 through 2021. [Sealed Jt. Ex. 3]. The ODC received certified copies of Petitioner's federal income tax returns for the years 2015 through 2020 from the Internal Revenue Service. [Sealed Jt. Ex. 4]. Lawyer Disciplinary Counsel took Petitioner's sworn statement on May 10, 2023. A legal advertisement soliciting written public comments regarding Petitioner's reinstatement petition was published three times in the Charleston Gazette-Mail, listing a submission deadline of April 20, 2023, and three times in the Williamson Daily News, listing a submission deadline of May 25, 2023. [Jt. Ex. 11 and 12]. The ODC did not receive any letters in response to the legal advertisements seeking comments regarding Petitioner's potential reinstatement. Petitioner submitted letters of support from the following members of his community: Jonathan "Duke" Jewell, Mingo County Prosecuting Attorney; Robert Kuenzel, Esquire; Christian Harris, Esquire; Greg Smith, Esquire; Dianna Maynard, Auditor for the City of Williamson; Lonnie Hannah, Mingo County Circuit Clerk; Jacqueline May; Mitzi Cross; and Stephanie Austin. [Jt. Ex. 13].

On or about July 25, 2023, the ODC filed a report regarding this matter with the Hearing Panel Subcommittee of the Lawyer Disciplinary Board (hereinafter "HPS") pursuant to Rule 3.33 of the Rules of Lawyer Disciplinary Procedure. On or about August 9, 2023, Petitioner, by counsel, filed a Motion Seeking an Order from the Hearing Panel that He Has Substantially Complied with

the Requirement to Produce Federal and State Income Tax Returns. On or about August 10, 2023, the HPS granted Petitioner's motion and ordered that the tax records provided by Petitioner were sufficient to move forward with Petitioner's reinstatement petition.

On September 6, 2023, this matter proceeded to hearing in Charleston, West Virginia. The HPS was comprised of Timothy E. Haught, Esquire, Chairperson; Margaret E. Lewis, Esquire; and Kelly C. McGee, Layperson. Lonnie C. Simmons appeared on behalf of Petitioner, who also appeared, and Lauren M. Hall, Lawyer Disciplinary Counsel, appeared on behalf of the ODC. The HPS heard testimony from Petitioner and John Mark Hubbard. Joint Exhibits 1 through 15 were admitted into evidence without objection from either party.

II. FINDINGS OF FACT

A. Background

Petitioner was born in 1969 and is currently 54 years old. [Hrg. Tr. 7]. Petitioner married his wife, Jennifer Michelle Sparks in 1997. [Hrg. Tr. 7]. Petitioner and Ms. Sparks share two daughters, Carly and Jenna. [Hrg. Tr. 7]. Carly is a freshman at the University of Pikeville and on the dance team, and Jenna is a senior at Belfry High School and on the basketball team. [Hrg. Tr. 7]. Petitioner grew up in Delbarton, Mingo County, West Virginia where he attended Varney Grade School, Matewan Junior High, and Matewan High School. [Hrg. Tr. 8]. Thereafter, Petitioner attended the University of Pikeville, on a presidential scholarship receiving his Bachelor of Science in History from the University of Pikeville in 1992. [Hrg. Tr. 8-9]. Petitioner graduated from West Virginia University College of Law in 1996 and was admitted to the West Virginia State Bar in September of that year. [Hrg. Tr. 9]. Following law school, Petitioner worked as Mental Hygiene Commissioner in Mingo County while also operating a solo law practice in Mingo County. [Hrg. Tr. 9-10].

Petitioner's practice consisted primarily of divorce cases, criminal defense, and personal injury. [Jt. Ex. 14, Bates 465]. In 2002, Petitioner resigned from his position as Mental Hygiene Commissioner and began working part-time as an assistant prosecuting attorney in Mingo County, while still maintaining his law practice. [Hrg. Tr. 10]. Petitioner was elected to the position of Mingo County Prosecuting Attorney in 2004. [Hrg. Tr. 10]. Petitioner remained in this position until his resignation in October 2013. [Hrg. Tr. 11].

B. Federal Investigation and Conviction

In or around May 2013, Petitioner began providing assistance to the federal government in its investigation into public corruption in Mingo County. [Jt. Ex. 8, Bates 331]. On or about August 14, 2013, an indictment was issued in the United States District Court for the Southern District of West Virginia against former Mingo County Circuit Judge Michael Thornsby which alleged that: "In 2008 and 2009, and again in 2012, [Judge Thornsby] engaged in criminal conspiracies to violate the constitutional rights of victim R.W., using the authority of the police, the state grand jury, and the courts. R.W. was the husband of Judge Thornsby's secretary, with whom Judge Thornsby had an extramarital relationship. Judge Thornsby conspired to plant illegal drugs on R.W.'s pickup truck; to have R.W. arrested for thefts he did not commit; to commandeer a state grand jury and use it to oppress R.W. and his family; and, after an incident in which R.W. was the victim of an assault, to arrange for R.W., rather than the perpetrator, to receive an exceptionally harsh sentence." [Jt. Ex. 15, Bates 535-52]. Regarding the allegation that R.W. was arrested for thefts he did not commit, the indictment alleged, in part, that: "At the time R.W. was arrested, [Petitioner] knew and had reason to know that Judge Thornsby had been in a romantic relationship with R.W.'s wife, K.W., and knew that Judge Thornsby exerted great influence over [the charging

officer, Trooper Brandon Moore,] in the performance of Trp. Moore's official duties. [Petitioner] recognized that the criminal charges against R.W. were improper, and on or about December 18, 2008, [Petitioner] disqualified himself from the matter involving R.W." [Jt. Ex. 15, Bates 539-41].

Regarding the allegation that Judge Thornsby arranged for R.W. to receive an exceptionally harsh sentence for the charges of assault and battery arising from an incident in which R.W. was the victim, the indictment alleged, in part, that: "Between in or about February 2012 and in or about October 2012, Judge Thornsby directed [his close friend and confidant, Jeff Cline,] to instruct [Petitioner] that R.W. should receive a sentence of six months' confinement in the case then pending against him. Cline then instructed [Petitioner], as well as an assistant prosecutor who handled cases in Mingo County Magistrate Court, as Judge Thornsby directed." The indictment further alleged that: "Between in or about February 2012 and in or about October 2012, a prosecutor from [Petitioner's] office offered R.W. a plea agreement under which R.W. would plead guilty to one or more of the charges against him and receive a sentence of six months' confinement. R.W. and his attorney refused the offer and stated that they would go to trial on the charges. On or about October 31, 2012, a day before R.W.'s trial was to begin, and contrary to Judge Thornsby's instructions, [Petitioner] moved to dismiss the charges against R.W., stating, 'After careful review of the video evidence, further prosecution of the charges would not be consistent with the public interest in the fair administration of justice.' The motion was granted and the charges on which R.W. had been arrested were dismissed." [Jt. Ex. 15, Bates 550-51].

On or about August 15, 2023, the ODC initiated complaint I.D. No. 13-03-378 against Petitioner based upon the allegations set forth in the Thornsby indictment. [Jt. Ex. 15, Bates 589-92]. Thereafter, on or about September 19, 2013, an information was issued in the United States

District Court for the Southern District of West Virginia against Judge Thornsby which described criminal conduct on the part of Petitioner regarding the deprivation of Mr. White's right to counsel. [Ex. 15, Bates 556-60]. That same day, the ODC initiated complaint I.D. No. 13-03-436 against Petitioner based upon this information and filed an Amended Petition Seeking Immediate Suspension of a Lawyer Pursuant to Rule 3.27 of the Rules of Lawyer Disciplinary Procedure regarding Petitioner's license to practice law. [Jt. Ex. 15; Bates 524-60].

Thereafter, an information was issued in the United States District Court for the Southern District of West Virginia charging Petitioner with a violation of 18 U.S.C. §242, deprivation of rights under the color of law. [Jt. Ex. 8, Bates 317-18]. On or about November 18, 2013, Petitioner executed a stipulation of facts and plea agreement wherein he admitted that he willfully and knowingly, and acting under the color of law, subjected an individual, George White, to the deprivation of his right to counsel of his choice under the Sixth and Fourteenth Amendments to the Constitution of the United States. [Jt. Ex. 8, Bates 319-28]. According to the stipulation of facts:

In or about February 2013, victim "G.W." was charged with drug-related criminal offenses in circuit court in Mingo County. In or about March 2013, [Mingo County Commissioner David Baisden] and the [then-sheriff of Mingo County] learned that G.W., with the assistance of his criminal defense attorney, C.W., was informing the news media and others, possibly including federal law enforcement, about criminal conduct by the Sheriff. Baisden and the Sheriff advised Mr. Sparks that G.W. and C.W. were providing this information about criminal conduct by the Sheriff. Baisden and the Sheriff advised Mr. Sparks that they would seek to coerce G.W. into firing C.W. in order to prevent G.W. and C.W. from further providing information about criminal conduct by the Sheriff. Baisden, through a known messenger, then offered G.W. a more favorable plea agreement if he would fire C.W. In response, G.W. fired C.W. and replaced C.W. with a different attorney.

After G.W. fired C.W., Mr. Sparks entered into a plea agreement with G.W. under which three of five criminal counts pending against G.W. were dismissed. As part of the plea agreement, Mr. Sparks also accepted a forfeiture from G.W. of \$10,000,

which was \$10,000 less than the forfeiture Mr. Sparks originally intended to seek from G.W. Moreover, as part of the agreement, Mr. Sparks agreed to recommend that the sentences for the two counts to which G.W. would plead guilty would run concurrently rather than consecutively. Mr. Sparks negotiated this plea agreement in part with County Commissioner Baisden himself and, at Baisden's behest, entered into a plea agreement more favorable than he otherwise would have. Mr. Sparks did these acts knowing that a more favorable plea agreement for G.W. was a necessary part of the scheme to coerce G.W. into firing C.W. in order to protect the Sheriff. Because Mr. Sparks was the county's Prosecuting Attorney, his cooperation in this regard was necessary to the scheme's success.

Under this plea agreement, Petitioner agreed to resign as Mingo County Prosecuting Attorney and to voluntarily surrender his license to practice law. [Jt. Ex. 8, Bates 320-21]. On or about February 27, 2014, the United States filed a Motion for Downward Departure for Substantial Assistance and memorandum in support wherein the United States Attorney described Petitioner's assistance as greatly aiding in the federal investigation and instrumental in bringing former Judge Thornsby to justice.² [Jt. Ex. 8, Bates 331-32].

Petitioner's sentencing hearing was held on July 7, 2014, before the Honorable Thomas E. Johnston. [Jt. Ex. 8, Bates 420-25]. During this hearing, Assistant United States Attorney, Steven Ruby and Petitioner's defense counsel, Kent Varney, responded to the Court's inquiries regarding what Petitioner did at or before the time of the deprivation of rights. [Jt. Ex. 8, Bates 388]. Mr. Ruby proffered to the Court that Petitioner was "advised of [...] the plan to deprive Mr. White of counsel before the proposal was made to Mr. White [...] in a conversation with at least Mr. Baisden." [Jt. Ex. 8, Bates 392]. The Court responded:

² The above-referenced indictment against Judge Thornsby was dismissed. Judge Thornsby pleaded guilty to conspiracy against civil rights related to his role in the deprivation of rights of George White.

The Court: And he – just so I'm clear on that, that was [...] before the proposal was made to Mr. White, Mr. Sparks had a conversation with Mr. Baisden in which he assented to the arrangement?

Mr. Ruby: That's correct, Your Honor.

The Court: And that's with the understanding that the arrangement would include a – would necessarily include a plea agreement, a more favorable plea agreement, if Mr. White was to agree to the arrangement?

Mr. Ruby: That's correct, Your Honor.

The Court: All right. Mr. Varney, is that your understanding?

Mr. Varney: Yes, Your Honor. Part of it, too, Mr. Sparks kind of learned of the momentum or movement to have Mr. White change attorneys and he didn't – he omitted from trying to stop that. He knew it was coming and he actually – you know, he granted a better plea agreement...

The Court: But the central question for me is, prior to this proposal being made to Mr. White, Mr. Ruby has proffered that in a conversation with Mr. Baisden, Mr. Sparks assented to this arrangement, which would necessarily include a more favorable plea agreement for Mr. White, in advance of that proposal being made.

Mr. Varney: Yes, Your Honor.

[Jt. Ex. 8, Bates 392-93]. Petitioner made the following statement to the Court at this hearing:

My failure to intervene when others convinced Mr. White to change lawyers was a neglect of duty that tarnishes an otherwise positive legacy of Christian leadership and, for that, I apologize to Mr. White.

Although my sentence recommendation in Mr. White's case was consistent with other comparable cases during my tenure, the end did not justify the means, and our system of criminal justice, the process, is even more important than the result, and I failed in the process.

Justice has been served by the federal investigation. Most notably, a corrupt judge with an insatiable thirst for power and control no longer reigns from the bench in Mingo County.

In candor to this Court, and certainly not to minimize any of my conduct which I accept full responsibility for, there is some things that I would like to clarify.

I did not devise the scheme, I think that's uncontroverted, but I did neglect my duty to stop it and I should have done that. It's been important for me to clarify that it was never my purpose to obstruct a federal investigation, though my conduct resulted in an injustice.

I never endeavored to protect the Team Mingo, so-called Team Mingo, political faction. As far as I was concerned, Team Mingo was merely a marketing gimmick for the 2012 primary election, but even so, it was a mistake in judgment for me; as a prosecuting attorney, to even become politically associated with such a group so heavily influenced by Thornsby. I could have and should have remained independent of both political factions as the prosecuting attorney.

[Jt. Ex. 8, Bates 402-03]. After listening to Petitioner's statement, Judge Thomas E. Johnston made the following comments:

And I want to make a comment, at this point, that in your remarks, and I think at least -- at least in one written submission, it was asserted that your part in this was to stand by and not do something about it, but that's inconsistent with the proffer that was made today and I don't for a minute believe that you were -- simply took a passive role in not doing something to stop this and I -- I'm giving you the benefit of the doubt by not placing at issue your acceptance of responsibility for making a statement like that.

[Jt. Ex. 8, Bates 414-15]. Thus, even though the District Court questioned Petitioner's statement that his role in this scheme was passive, the District Court nevertheless accepted his guilty plea based upon the assistance Petitioner had provided in the prosecution of Judge Thornsby and Petitioner's acceptance of responsibility.

C. Petitioner's History Since Disbarment

Petitioner was sentenced to serve one year in prison and one year of supervised release upon his release from prison. [Jt. Ex. 8, Bates 420-25]. Prior to serving his prison sentence, Petitioner worked as a manager at Southside Mall Theatre and as a paralegal at Carlton Law Office in Williamson, West Virginia. [Hrg. Tr. 39; Sealed Jt. Ex. 2, Bates 22]. After his release, Petitioner continued to work at Southside Mall Theatre and Carlton Law Office until December 2015. [Sealed

Jt. Ex. 22, Bates 22]. Thereafter, Petitioner began working as a paralegal at Simpkins Law Office in Williamson, West Virginia in January 2016, where he is presently employed. [Hrg. Tr. 47]. Petitioner currently resides in Mingo County.

Petitioner's yearly taxable income during the period of his disbarment has ranged from \$904 to \$120,459.00. [Sealed Jt. Ex. 2, Bates 23; Sealed Jt. Ex. 3]. According to criminal background searches conducted by the FBI and the West Virginia State Police, Petitioner has not been charged with any criminal offense other than the misdemeanor conviction which led to his consent to disbarment. [Jt. Ex. 6 and 7]. Petitioner obtained 11.80 total Continuing Legal Education credits, including 2.20 ethics credits, during the 2020-2022 reporting period. [Jt. Ex. 9, Bates 437-38]. Petitioner has obtained 13.60 Continuing Legal Education credits during the 2022-2024 reporting period. [Jt. Ex. 10, Bates 339-40].

Petitioner has been named as a defendant in nine civil actions since his disbarment, most of which were dismissed. Three matters were resolved with a settlement agreement: *Donald Ray Stevens et al. v. Michael Thornsberry et al.*, Kanawha County Circuit Court Case No. 13-C-2044; *Albert W. Childress III v. Michael Thornsberry et al.*, Kanawha County Circuit Court Case No. 16-C-1387; and *George White v. C. Michael Sparks et al.*, Mingo County Circuit Court Case No. 14-C-48. Petitioner stated that he did not admit any wrongdoing in the *Stevens* or *Childress* cases. [Jt. Ex. 14, Bates 490-94]. Pursuant to the terms of the settlement agreement in *George White v. C. Michael Sparks et al.*, Petitioner paid Mr. White \$5,000.00. [Sealed Jt. Ex. 2 at 24-30].

D. Prior Disciplinary History

Prior to engaging in the conduct that led to his disbarment, Petitioner was the subject of three disciplinary sanctions. Petitioner was admonished by the Investigative Panel of the Lawyer

Disciplinary Board in March 1999 for failing to obtain a waiver from a former client after he learned that the interests of a current client were adverse to those of the former client and involved a substantially related matter, in violation of Rule 1.9 of the Rules of Professional Conduct. [Jt. Ex. 15, Bates 674-79]. Petitioner was admonished by the Investigative Panel in May 2007 for failing to exercise appropriate authority and supervision over his non-lawyer employees, in violation of Rule 5.3 of the Rules of Professional Conduct. [Jt. Ex. 15, Bates 636-43]. Thereafter, Petitioner was admonished by the Investigative Panel in June 2009 for failing to disqualify himself from a prosecution of a former client, when he had previously disqualified himself from a prior prosecution of the same former client which created an appearance of impropriety, in violation of Rule 1.9(b) of the Rules of Professional Conduct. [Jt. Ex. 15, Bates 625-30]. At the time of his disbarment, Petitioner was the subject of five open disciplinary complaints, all of which were closed after Petitioner's disbarment. [Jt. Ex. 15, Bates 561-99].

E. Reinstatement Hearing

C. Michael Sparks, Petitioner

Petitioner testified regarding his background and employment prior to being elected as Mingo County Prosecuting Attorney in 2004. [Hrg. Tr. 7-10]. Petitioner testified that he was subsequently re-elected twice by the citizens of Mingo County. [Hrg. Tr. 11]. Petitioner testified that as Mingo County Prosecuting Attorney, he typically had two assistant prosecuting attorneys, one of whom was typically assigned to magistrate court and one of whom handled the abuse and neglect cases. [Hrg. Tr. 11]. Petitioner stated that he handled most of the felony cases and presentments to the grand jury and that he would have at least fifteen felony cases in a typical term of court. [Hrg. Tr. 11-12]. Petitioner testified that during his time as Mingo County Prosecuting

Attorney he tried between 20 and 30 cases as most cases were resolved through plea agreements. [Hrg. Tr. 12].

Petitioner testified that in 2012 Mingo County had two factions of the democratic party: one faction was led by Truman Chafin and the other faction was led by Judge Thornsby. [Hrg. Tr. 13]. Petitioner stated that while he tried to maintain neutrality, he ran for office on a ticket called Team Mingo, which was a loose political affiliation viewed as Judge Thornsby's ticket. [Hrg. Tr. 13]. Petitioner stated that there were rumors that FBI agents were "hanging out in one of the magistrate's offices" but at the time, it was not a matter of great concern. [Hrg. Tr. 13-14]. Petitioner stated that after Sheriff Crum was killed in April 2013, he began to discuss whether he should get involved in the FBI investigation and if there was any information that he could provide to investigators. [Hrg. Tr. 14]. Petitioner stated that his investigator, Mr. Gilman, arranged for him to meet with Sergeant Dave Nelson of the West Virginia State Police. [Hrg. Tr. 14]. Present at this meeting was Petitioner, Mr. Gilman, Sergeant Nelson, Trooper Perdue, and an FBI agent. [Hrg. Tr. 15]. Petitioner testified that he did not consult with counsel prior to attending this meeting. [Hrg. Tr. 15]. Petitioner stated that he answered questions and that he was advised by troopers that Judge Thornsby was the target of their investigation. [Hrg. Tr. 16]. Petitioner testified that he met with Mr. Ruby a few weeks later, without counsel present, and provided Mr. Ruby with insight into the political landscape of Mingo County and Judge Thornsby's circle. [Hrg. Tr. 16].

Petitioner testified that sometime after this meeting, Jeff Cline, one of Judge Thornsby's "political cronies," came to his office one evening, frightened, and informed Petitioner that he was summoned to Judge Thornsby's office at midnight one night. [Hrg. Tr. 16-17]. Petitioner testified that Mr. Cline told him that when he arrived at Judge Thornsby's office, he witnessed Judge

Thornsbury crushing pills and putting them in a metal box. [Hrg. Tr. 17]. Mr. Cline further informed Petitioner that Judge Thornsbury told him that he wanted to have a relationship with his secretary, so they were going to put the box of pills under Judge Thornsbury's secretary's husband's vehicle so that Trooper Brandon Moore, who was close to Judge Thornsbury, would pull him over, seize the drugs, and arrest him to get him out of the picture. [Hrg. Tr. 17]. Petitioner testified that he relayed this information to Trooper Nelson. [Hrg. Tr. 18]. Petitioner stated that this information was used in the subsequent federal indictment of Judge Thornsbury. [Hrg. Tr. 18]. Petitioner discussed that he encouraged other witnesses to obtain legal counsel and to provide information to Mr. Ruby and the FBI, and that he would arrange meetings to facilitate the same. [Hrg. Tr. 18-19]. Petitioner stated that he testified before the grand jury regarding Judge Thornsbury. [Hrg. Tr. 21].

Regarding the allegation set forth in the Thornsbury indictment that Judge Thornsbury arranged for R.W. to receive an exceptionally harsh sentence for the charges of assault and battery arising from an incident in which R.W. was the victim, Petitioner stated that R.W., "got into a fight with a person at a Speedway in Gilbert, and he was charged with battery." [Hrg. Tr. 21]. Petitioner testified that Mr. Cline approached him one day to advise him that Judge Thornsbury wanted him to get R.W. to plead guilty to battery and put R.W. in jail. [Hrg. Tr. 22]. Petitioner said at the time he just said "okay," but that he did not follow through with the request. [Hrg. Tr. 22]. Petitioner testified that he did not go to magistrate court when R.W. was charged but when it came time for R.W.'s case to go to trial, R.W.'s attorney, Mike Callaghan, told Petitioner to look at the surveillance video of the incident. [Hrg. Tr. 22]. Petitioner testified that he ultimately dropped the charges against R.W. after reviewing the surveillance video. [Hrg. Tr. 22]. Petitioner stated that at that time he believed that there would be retribution from Judge Thornsbury, stating that when he would do

something that Judge Thornbury did not like, he would give Petitioner's assistant prosecuting attorneys "a really rough time in court." [Hrg. Tr. 23]. Petitioner testified that he provided this information to Mr. Ruby. [Hrg. Tr. 23].

Regarding the conduct which led to Petitioner's consent to disbarment, Petitioner stated that Mr. White was a local businessman who made political signs and that Sheriff Crum bought many signs from Mr. White. [Hrg. Tr. 25]. Petitioner stated that Mr. White was indicted for two or three controlled purchases because he sold pills to a confidential informant, and when Mr. White was arrested, officers found more drugs. [Hrg. Tr. 25]. Petitioner testified that he believes Mr. White was charged with two counts of possession with intent to deliver and three counts of delivery. [Hrg. Tr. 25]. Petitioner stated that he assigned the case to Glenn Rutledge and Charles "Butch" West represented Mr. White. [Hrg. Tr. 25]. Petitioner stated that one day Sheriff Crum came to his office and informed him that Mr. West called the Daily News to get them to interview Mr. White and was going to allege that Mr. White had sold pills to Sheriff Crum. [Hrg. Tr. 26]. Sheriff Crum also said that something needed to be done. [Hrg. Tr. 26]. Petitioner stated that he told Sheriff Crum that he needed to get thicker skin and at the time his thought was that Mr. White was a drug dealer and he might say anything but there is nothing that they could do about it. [Hrg. Tr. 26].

Petitioner testified that he had a formula, with exceptions, wherein for drug offenses, if there were more than three counts pending, he would offer for the defendant to plead guilty to two counts. [Hrg. Tr. 26]. Petitioner testified that Mr. White was charged with five counts, so the initial plea offer for Mr. White was to plead guilty to two counts, and for the sentences to run consecutively. [Hrg. Tr. 26]. Petitioner testified that Dave Baisden, who was county commissioner at the time, and friends with Mr. White's brother, came up to him "once or twice and said, 'Hey, Michael, can you

do better?" referring to the plea offer he made to Mr. White. [Hrg. Tr. 26]. Petitioner testified that generally counsel would come back after the initial plea offer and he would agree to run the sentences concurrently, but Mr. West never came back after the initial plea offer. [Hrg. Tr. 27]. Petitioner testified that Mr. Baiden came up to him one day after lunch and said, "Michael we're getting rid of - George is going to get a new attorney. We're going to get Ron Rumora." [Hrg. Tr. 27]. Petitioner testified that he "should have done something" because he was aware that Sheriff Crum was Judge Thornsby's "crony," and he knew that Judge Thornsby was upset with Mr. West and he "knew - at least had reason to believe" that there were "other things at play here," but in his "shortsighted thinking," he thought Mr. White was "going to get the same deal he's going to get anyway," so Petitioner "did nothing about it" and "went with the flow." [Hrg. Tr. 27-28].

Petitioner testified that later Mr. Rumora came to him to negotiate a better plea deal, and he advised Mr. Rumora that he would run the sentences concurrently. [Hrg. Tr. 28]. Mr. White accepted the plea offer. [Hrg. Tr. 28]. Petitioner testified that he found out later that Judge Thornsby advised Mr. Baisden that if Mr. White did not fire Mr. West, he would have no chance of getting probation. [Hrg. Tr. 28]. Petitioner testified that he did not know this information at the time but that he "knew enough to where [he] certainly should have done something." [Hrg. Tr. 28-29]. Petitioner testified that he was not paid any money to give Mr. Rumora a better deal, and he did not receive any benefit from changing the deal for Mr. White after he fired Mr. West. [Hrg. Tr. 29-30]. Petitioner testified that if he could do it over again, he would have told Mr. Baisden not to come to him anymore, and to back off and to let Mr. White have the attorney that he wants. [Hrg. Tr. 30-31].

Petitioner testified that once the Thornsby information became public he became aware that the federal government was looking at him, so he got an attorney and arranged for a meeting.

[Hrg. Tr. 32]. Petitioner testified that the federal government initially told him, "Just say you lied to us in some way, and we'll let you plead to a felony, you know, giving false information to an FBI officer." [Hrg. Tr. 32]. Petitioner testified that he did not want to plead guilty to a felony and after discussion, Mr. Ruby agreed to let him plead guilty to a misdemeanor. [Hrg. Tr. 32]. Petitioner stated that his attorney accepted the offer without knowing what Petitioner was going to plead guilty to because he was afraid that they would change their mind. [Hrg. Tr. 33]. Petitioner testified that while he believes that he did not have enough information to file a judicial complaint against Judge Thornsby, he should have approached investigators sooner. [Hrg. Tr. 34-35].

Petitioner discussed what was referred to as the "state grand jury scheme" in the Thornsby indictment. Petitioner testified that he came into his office one day to find boxes of documents in the hallway. [Hrg. Tr. 35]. Petitioner testified that he was advised that the grand jury was meeting without a prosecutor, and that Mr. Fletcher was the foreperson and Trooper Moore would be testifying. [Hrg. Tr. 35]. Petitioner testified that in hindsight he should have reported this when it happened. [Hrg. Tr. 35].

Petitioner testified that he entered a guilty plea to misdemeanor deprivation of rights under the color of law, and that he was sentenced to 12 months of incarceration, wherein he spent roughly ten months in a correctional facility. [Hrg. Tr. 37-38]. Petitioner testified that he served the first two months of his sentence at a facility in Oxford, Wisconsin which made it difficult for his family to visit him, and Former Congressman Nick Rahall was able to assist him to be transferred to a facility in Cumberland, Maryland. [Hrg. Tr. 40-41].

Petitioner testified that he consented to disbarment because he pled guilty to a federal offense and "disgraced [his] profession." [Hrg. Tr. 42]. Petitioner discussed what he learned from

his incarceration. [Hrg. Tr. 42-44]. After Petitioner's release from prison, he went to a residential reentry center in Charleston, West Virginia, where he drove from Charleston to Williamson to work at Carlton Law Office from 10:00 a.m. to 3:00 p.m. and Southside Mall Theatre from 3:30 p.m. to close. [Hrg. Tr. 44-45]. After two weeks at the residential reentry center, Petitioner was placed on home confinement, and after his release from home confinement, Petitioner was on supervised release for one year. [Hrg. Tr. 45-46]. Throughout this time, Petitioner continued to work at Carlton Law Office and Southside Mall Theatre. [Hrg. Tr. 46]. Petitioner testified that he began working as a paralegal for his current employer, Simpkins Law Office, on January 1, 2016. [Hrg. Tr. 46-47]. Petitioner testified that he previously he wrote a theology column in the local newspaper once a week, served dinners at a drug treatment facility, and performed landscaping at the school where his wife teaches. [Hrg. Tr. 49].

Petitioner testified that Mr. Simpkins was hired by Don Blankenship as local counsel for a law firm in Los Angeles, California regarding a defamation matter. [Hrg. Tr. 51-52]. Petitioner stated that as time went on Mr. Blankenship began to value his professional input and "had more confidence in [Petitioner's] legal writing ability than he had with the attorneys in LA." [Hrg. Tr. 52]. Petitioner testified that under the supervision of Mr. Blankenship's counsel, he has been able to draft pleadings, including a petition for appeal in the Fourth Circuit Court of Appeals and a petition for writ of certiorari in the Supreme Court of the United States. [Hrg. Tr. 53]. Petitioner stated that he feels blessed to be supervised by lawyers who allow him the freedom and responsibility to do this work. [Hrg. Tr. 53].

Petitioner testified that he did not apply for reinstatement after five years because he thought it would send the wrong message and that he thought he needed more time to prove himself and be

punished for what he did. [Hrg. Tr. 54]. Petitioner testified that he has remained current with developments in the law through his work at Simpkins Law Office and by taking CLE classes. [Hrg. Tr. 55-56]. Petitioner stated that all civil actions in which he was named as a defendant have been resolved, including the civil action filed by Mr. White wherein Petitioner paid Mr. White \$5,000.00 out of his own pocket. [Hrg. Tr. 57]. Regarding his disciplinary history, Petitioner testified that he learned from his prior admonishments. [Hrg. Tr. 59]. Regarding his moral character and integrity, Petitioner discussed his faith in God and his efforts to do what is right and be the best person he can be. [Hrg. Tr. 60]. Petitioner testified that if his license to practice law is reinstated, he plans to take criminal appointments to represent indigent defendants and continue working at Simpkins Law Office. [Hrg. Tr. 63]. Petitioner testified that he regrets his actions but that "tribulations build character, and character builds faith." [Hrg. Tr. 64].

On cross-examination, Petitioner testified that Mr. White was indicted for drug related offenses in February 2013, and that he is "almost positive" that he presented these charges to the grand jury. [Hrg. Tr. 71]. Petitioner testified that Mr. White's original plea offer, for Mr. White to plead guilty to two counts and for the sentences to run consecutively, was given to Mr. White's original counsel, Mr. West, and that he originally offered for the sentences to run consecutively so that he had wiggle room if counsel came back to negotiate a better deal. [Hrg. Tr. 71-72]. Petitioner agreed that this was his typical way of resolving cases such as this. [Hrg. Tr. 72-73]. Petitioner testified that Mr. White's brother was good friends with Mr. Baisden, and that when Mr. Baisden came to him for the first time to talk about Mr. White his impression was that he came to him on Mr. White's brother's behalf and to help Mr. White. [Hrg. Tr. 73, 75]. Petitioner stated that when Mr. Baisden came to him to ask if he could do something better for Mr. White, he told him that Mr.

White would have to plead guilty to a felony and that he would not recommend probation. [Hrg. Tr. 75-76]. Petitioner clarified that Sheriff Crum came to him to complain about Mr. White and Mr. West doing an interview with news media after Mr. Baisden came to him to see if he could offer Mr. White a better plea deal. [Hrg. Tr. 76]. Thereafter, Mr. Baisden ran into Petitioner on the street and informed him that they had Mr. White fire Mr. West and hire Mr. Rumora. [Hrg. Tr. 82]. When asked if he knew why Mr. Baisden would want Mr. West off the case Petitioner testified: "I think that's [...] where I failed is Ron Rumora would have been someone that [...] the judge would have approved of [...]. So it just -- it had a stench to it that, you know, 'here we go.' We know -- I know nobody likes Butch. You know, the judge doesn't. I know that Eugene Crum has complained about Butch, and I know if he told me, he certainly told the judge probably first, and then was told to come to me, see if I would do anything about it. So yeah, that's when, you know, I should have said, you know, 'Hey, guys, this is -- you know, I know what's going on here. This is no good,' but I didn't." [Hrg. Tr. 82-83].

When asked if he negotiated Mr. White's plea agreement with Mr. Baisden or at Mr. Baisden's behest or direction, Petitioner testified that he did not. [Hrg. Tr. 88-89]. Earlier in his testimony, Petitioner explained how Sheriff Eugene Crum and Commissioner Baisden had come to him at separate times to discuss Mr. White's case. [Hrg. Tr. 26]. Sheriff Crum told Petitioner that he had learned Mr. White was going to speak with the media and allege that he had sold pills to Sheriff Crum. [Hrg. Tr. 25-26]. At a different time, Commissioner Baisden, who was friends with Mr. White's brother, asked Petitioner if he could offer a better deal for Mr. White. [Hrg. Tr. 26]. At a later time after he had made the initial approach to discuss Mr. White, Commissioner Baisden specifically told Petitioner that "We're getting rid of -- George is going to get a new attorney. We're

going to get Ron Rumora," who was my former boss." [Hrg. Tr. 27]. Petitioner did learn after the fact that Commissioner Baisden had been involved in a discussion with Judge Thornsby, who explained that if Mr. White did not get new counsel, he had no chance of getting probation. [Hrg. Tr. 28].

Petitioner testified that Commissioner Baisden was not present when Petitioner negotiated the plea agreement with the new counsel Ron Rumora. [Hrg. Tr. 88]. However, by the time this plea agreement for Mr. White was negotiated, Petitioner was aware that Sheriff Crum, Commissioner Baisden and maybe others had been involved in a plan to persuade Mr. White to discharge Mr. West and to hire Mr. Rumora. Petitioner explained he knew Mr. White would not have gotten probation if Mr. White was still represented by Mr. West. Petitioner also knew that Judge Thornsby would have acted in a punitive nature against Mr. White if his counsel was Mr. West. [Hrg. Tr. 87].

Petitioner testified that he accepted responsibility under the statement of facts. [Hrg. Tr. 92]. Moreover, Petitioner testified: "These facts are required to [...] provide a factual basis for the conviction that I had. If I did not stipulate to these facts as written, then I would not have been able to -- the judge would have rejected the plea." [Hrg. Tr. 92]. When asked if the stipulation of facts may not accurately portray Petitioner's involvement in what happened to Mr. White, Petitioner testified: "I accept responsibility under the stipulation of facts. Whatever it says, that's the criminal responsibility I accepted... [T]o the extent that my testimony here today is different from the stipulation of facts, then -- then it's a mistake on my part, and I accept the stipulation of facts as written." [Hrg. Tr. 93].

Petitioner testified that Mr. White's guilty plea was ultimately set aside and the charges against him were dismissed. [Hrg. Tr. 94]. Petitioner testified that he absolutely believed at the time

that the charges against Mr. White were supported by probable cause, and that he believes today that the charges were supported by probable cause. [Hrg. Tr. 94, 96]. Petitioner testified that Sheriff Crum's successor took evidence home in the trunk of his car and that was part of the basis for the dismissal of Mr. White's charges. [Hrg. Tr. 94-95]. Petitioner testified that injustice occurred in Mr. White's case due to his failure to act more proactively and to protect Mr. White's right to counsel of his choice. [Hrg. Tr. 98]. Petitioner agreed that as a prosecutor he had a duty to the public and the justice system to ensure the fair administration of justice and that his conduct was a breach of that duty and had a negative effect on the public confidence in the justice system in Mingo County. [Hrg. Tr. 98-99].

Regarding the alleged "state grand jury scheme" set forth in the Thornbury indictment, Petitioner testified that after he was informed that the grand jury was meeting and that there was no prosecuting attorney involved, Judge Thornsby advised him that it was regarding a large theft ring and where it was not his case, he did not ask much about it. [Hrg. Tr. 105]. Petitioner testified that at the time he had no knowledge that the grand jury was convened for the purpose of targeting R.W. [Hrg. Tr. 106]. Regarding the allegation from the Thornsby indictment that Judge Thornsby had R.W. arrested for thefts he did not commit, Petitioner testified that he disqualified himself from the prosecution because he dealt with Judge Thornsby's secretary on a daily basis and felt that his office should not be involved in the prosecution of her husband. [Hrg. Tr. 108]. When asked if he was aware that the charges against R.W. were improper, Petitioner testified that he was not aware but that he probably should have looked into it because he knew Trooper Moore was involved. [Hrg. Tr. 108]. Petitioner stated that he "had no reason to believe [...] that there would be a false – you know, just absolutely false charges with no basis at all. No, I didn't think

that at all. Again, probably naïve or turned a blind eye unconsciously. You know, in hindsight, it's terrible." [Hrg. Tr. 109].

Regarding the allegations in the Thornsby indictment that Mr. Cline informed Petitioner and an assistant prosecuting attorney in his office of Judge Thornsby's directive that R.W. should receive a sentence of six months confinement and an assistant prosecuting attorney in his office offered R.W. a plea agreement in line with Judge Thornsby's directive, Petitioner testified that he could not recall which assistant prosecuting attorney was working in magistrate court at the time, but he did not "think any of the assistants that I had would have done something like that at the behest of the judge." [Hrg. Tr. 110-11]. Petitioner testified that at this time, he knew that Judge Thornsby was attempting to influence his office regarding plea negotiations but that: "you don't file a judicial complaint on Jeff Cline's – not defending my inaction, but you don't on his word. But probably something – I don't know. Maybe I should have reported it to the FBI and stuff. I – again, I regret that – I mean, as I – these facts are horrific as I, you know, sit here today, and – and not making any excuses at all. It's bad." [Hrg. Tr. 112-13]. Petitioner testified that while he agreed that the allegations made against Judge Thornsby called into question his fitness for judicial office and that he takes "full responsibility" for not reporting Judge Thornsby to the Judicial Investigation Commission. [Hrg. Tr. 118-19].

Petitioner testified regarding his income derived from Simpkins Law Office. [Hrg. Tr. 123-24]. Petitioner testified that the state and federal tax returns he submitted for this matter are true and accurate copies of the documents he submitted to the IRS and West Virginia Tax Department, and that they were properly filed and accepted by tax authorities. [Hrg. Tr. 124-25].

Upon questioning by Mr. Haught, Petitioner agreed that he did not have any firsthand knowledge of any wrongdoing by Judge Thornsby which would substantiate or give him probable cause to believe that Judge Thornsby was violating the rules of judicial ethics, and that mere suspicion is insufficient to justify filing an ethics complaint against another lawyer or a judge. [Hrg. Tr. 137-39]. Petitioner testified that he did not have enough evidence to take action against Judge Thornsby until the FBI became involved. [Hrg. Tr. 139-40]. Regarding the discrepancy between Petitioner's testimony and the stipulation of facts, Mr. Haught asked Petitioner if he had been threatened with felony prosecution by the federal government to which Petitioner testified that he had. [Hrg. Tr. 149]. Petitioner testified that he agreed to the stipulation of facts so that he could plead guilty to a misdemeanor offense. [Hrg. Tr. 154]. Petitioner discussed how Mr. Ruby made it clear to him that he could either accept the misdemeanor plea or "we'll just roll the dice," and Petitioner could not risk spending five years away from his family. [Hrg. Tr. 153-54]. Petitioner testified that he was not minimizing his conduct stating that "just because it may have not 100 percent happened the way the stipulation of facts [sets forth] doesn't mean that I did not shirk a duty [...] and commit egregious misconduct...." [Hrg. Tr. 155]. When asked if he knowingly engaged in the underlying conduct as part of an agreement with Judge Thornsby and Mr. Baisden, Petitioner testified that he did not but that he accepts responsibility for it. [Hrg. Tr. 155-56]. When asked if he knew that what he was doing was criminal at the time, Petitioner testified that he did not. [Hrg. Tr. 156-57].

Ms. Lewis questioned Petitioner about why he left Carlton Law Office to work at Simpkins Law Office and Petitioner testified that Mr. Simpkins offered more money and had a busier practice, as Mr. Carlton was toward the end of his career. [Hrg. Tr. 162]. When asked at what point Petitioner

realized that he had done something wrong, Petitioner testified that he did not come to the realization that he had done anything wrong until he saw the Thornsbury information regarding Mr. White. [Hrg. Tr. 163].

John Mark Hubbard

Mr. Hubbard testified that he is from Williamson, West Virginia. Mr. Hubbard is employed as a national account manager for United Central Industrial Supply, and previously served as Mingo County Commissioner for nearly thirteen years, nine of which he served as commission president. Mr. Hubbard testified that he has known Petitioner since the early 2000s. Mr. Hubbard came to know Petitioner through church and by working closely together as county commissioner and prosecutor. Mr. Hubbard spoke highly of Petitioner's work as Mingo County Prosecuting Attorney. Mr. Hubbard testified that Petitioner regretted what occurred but has moved forward in a positive direction. Mr. Hubbard testified that the community has fully embraced Petitioner. On cross examination, Mr. Hubbard testified that he does not believe that the reinstatement of Petitioner's license to practice law would have an adverse effect on the public confidence in the administration of justice. Upon questioning by Mr. Haught, Mr. Hubbard testified that he believes that if Petitioner's license to practice law is reinstated, he would absolutely be effective practicing law in Mingo County. [Hrg. Tr. 165-76].

III. STANDARD FOR REINSTATEMENT

The primary authority in West Virginia on the standard for reinstatement of a lawyer whose license was annulled, *In re Brown*, provides:

The general rule for reinstatement is that a disbarred attorney in order to regain admission to the practice of law bears the burden of showing that he presently possesses the integrity, moral character and legal competence to resume the practice

of law. To overcome the adverse effect of the previous disbarment, he must demonstrate a record of rehabilitation. In addition, the court must conclude that such reinstatement will not have a justifiable and substantial adverse effect on the public confidence in the administration of justice and in this regard the seriousness of the conduct leading to disbarment is an important consideration.

Syl. Pt. 1, *In re Brown*, 166 W. Va. 226, 273 S.E.2d 567 (1980). Furthermore: "in assessing an application for reinstatement consideration must be given to the nature of the original offense for which the applicant was disbarred. Obviously, the more serious the nature of the underlying offense, the more difficult the task becomes to show a basis for reinstatement." *Id.* at 234, 273 S.E.2d at 571.

Moreover, "[r]ehabilitation is demonstrated by a course of conduct that enables the court to conclude there is little likelihood that after such rehabilitation is completed and the applicant is readmitted to the practice of law he will engage in unprofessional conduct." *Id.* at Syl. Pt. 2. "In judging whether a petitioner satisfies these standards and has demonstrated the requisite rehabilitation since disbarment, it is necessary to look to (1) the nature of the original offense for which the petitioner was disbarred, (2) the petitioner's character, maturity, and experience at the time of his disbarment, (3) the petitioner's occupations and conduct in the time since his disbarment, (4) the time elapsed since the disbarment, and (5) the petitioner's present competence in legal skills. *In re Smith*, 214 W.Va. 83, 85, 585 S.E.2d 602, 604 (1980) (quoting *In re Hiss*, 368 Mass. 447, 333 N.E.2d 429 (1975)). The burden of proof is on Petitioner to establish his case for reinstatement. *Brown*, 166 W. Va. at 229, S.E.2d at 569. The ODC asserts that the Petitioner's burden of proof to establish the foregoing is that of clear and convincing evidence. This is the same standard applied in all lawyer disciplinary cases under Rule 3.7 of the Rules of Lawyer Disciplinary Procedure. This is also the same burden lawyers who have been administratively

suspended for a disability must meet pursuant to the specific language of Rule 3.24(a) of the Rules of Lawyer Disciplinary Procedure.

IV. CONCLUSIONS OF LAW

The letters and statements from attorneys, friends, judges, and community leaders on behalf of the Petitioner should be duly noted and not discounted by the Office of Disciplinary Counsel. The statements of a lawyer's peers as to his or her present possession of integrity, moral character, and legal competence are extremely relevant on the issue, particularly in the absence of evidence to the contrary. In a system of discipline where lawyers are judged by their peers it should be given appropriate weight for or against the reinstatement of a lawyer. Here the weight of such positive opinion evidence in favor of the reinstatement of the Petitioner cannot simply be dismissed as of "little value." The Hearing Panel recognizes, however, that it is not dispositive on the issue of reinstatement. The letters and statements in this case further suggest that the reinstatement of Petitioner's law license will not have a substantial adverse effect on the public confidence in the administration of justice. In fact, there is no evidence in the record other than the facts which gave rise to his misdemeanor conviction and prior discipline that indicate that the public confidence in the administration of justice would be substantially impacted, particularly given the fact that the Petitioner's license was annulled over ten years ago.

It is true that the Petitioner was convicted of a misdemeanor offense while he was Mingo County Prosecuting Attorney. However, it is abundantly clear from the record that he cooperated fully with the authorities in the investigation and provided substantial information to them in the case against former Judge Thornsby. He provided information and cooperation without any promise of immunity or plea agreement. He further resigned as prosecutor, consented to disbarment and pled guilty to a misdemeanor. He successfully completed his prison sentence and

the terms of his supervised release. He has fully accepted the responsibility and consequences of his crime and has taken substantial steps to be a productive citizen since that time. He has maintained employment and kept up with issues involving the practice of law and worked as a paralegal. These are all factors which support reinstatement.

The ODC asserts that Petitioner's testimony before this Panel somehow differed from the facts asserted in the District Court stipulations and statements. Petitioner respectfully submits that his testimony before this Panel was consistent with the facts accepted by the District Court. Because it is this area of disagreement that has prompted the ODC to recommend against reinstatement, the Hearing Panel believes that a thorough discussion of this issue will be helpful to the Court.

The following facts are undisputed with respect to the misdemeanor Petitioner acknowledges he committed in 2013:

- Petitioner served as the elected Mingo County Prosecuting Attorney from 2004 through 2013 [JOINT FINDINGS at 4];
- In 2013, George White, who was represented by a lawyer named Charles "Butch" West, was indicted in Mingo County for five drug-related offenses. While Mr. West was representing Mr. White, Petitioner offered to drop three of the counts if Mr. White would plead guilty to two counts. [JOINT FINDINGS at 6, 14];
- Some time, thereafter, Petitioner was approached by Sheriff Crum, who expressed his concern that Mr. White was going to tell the media that Sheriff Crum had purchased pills from Mr. White. Mingo County Commissioner Dave Baisden approached Petitioner and asked if Petitioner could make a better deal for Mr. White. During a later conversation, Commissioner Baisden told Petitioner, "Michael we're getting rid of – George is going to get a new attorney. We're going to get Ron Rumora." [Hrg. Tr. 27]. [JOINT FINDINGS at 14]. Thus, at that time, Petitioner knew that some individuals were taking actions to persuade Mr. White to fire his lawyer, Mr. West, and to hire Mr. Rumora, for whom Petitioner used to work.
- "Petitioner testified that he 'should have done something' because he was aware that Sheriff Crum was Judge Thornsby's 'crony,' and he knew that Judge

Thornsbury was upset with Mr. West and he 'knew -- at least had reason to believe' that there were 'other things at play here,' but in his 'shortsighted thinking,' he thought Mr. White was 'going to get the same deal he's going to get anyway,' so Petitioner 'did nothing about it' and 'went with the flow.' [Hrg. Tr. 27-28].” [JOINT FINDINGS at 14].

- “Petitioner testified that later Mr. Rumora came to him to negotiate a better plea deal, and he advised Mr. Rumora that he would run the sentences concurrently. [Hrg. Tr. 28]. Mr. White accepted the plea offer. [Hrg. Tr. 28]. Petitioner testified that he found out later that Judge Thornsbury advised Mr. Baisden that if Mr. White did not fire Mr. West, he would have no chance of getting probation. [Hrg. Tr. 28]. Petitioner testified that he did not know this information at the time but that he 'knew enough to where [he] certainly should have done something.' [Hrg. Tr. 28-29]. Petitioner testified that he was not paid any money to give Mr. Rumora a better deal, and he did not receive any benefit from changing the deal for Mr. White after he fired Mr. West. [Hrg. Tr. 29-30]. Petitioner testified that if he could do it over again, he would have told Mr. Baisden not to come to him anymore, and to back off and to let Mr. White have the attorney that he wants. [Hrg. Tr. 30-31].” [JOINT FINDINGS at 1-15).

Petitioner did not negotiate Mr. White's plea agreement with Commissioner Baisden. During the hearing, the ODC asked Petitioner if he had negotiated Mr. White's plea agreement with Commissioner Baisden or at Commissioner Baisden's behest or direction. Petitioner denied this assertion. [Hrg. Tr. 88-89]. This testimony was consistent with the District Court Information, where the United States and Petitioner stipulated: “Baisden and the Sheriff advised Mr. Sparks that they would seek to coerce G.W. into firing C.W. in order to prevent G.W. and C.W. from further providing information about criminal conduct by the Sheriff. Baisden, through a known messenger, then offered G.W. a more favorable plea agreement if he would fire C.W. In response, G.W. fired C.W. and replaced C.W. with a different attorney.” [JOINT FINDINGS at 6].

The United States Attorney never asserted that Petitioner had negotiated Mr. White's plea agreement with Commissioner Baisden. Petitioner testified that Commissioner Baisden was not

present when Petitioner negotiated the plea agreement with the new counsel Rumora. [Hrg. Tr. 88]. Moreover, the stipulation does not allege that Petitioner negotiated Mr. White's plea agreement with Commissioner Baisden, but notes that Mr. White was advised by "a known messenger" that he would get a better deal by replacing Mr. West with Mr. Rumora. At no time was Petitioner alleged to be this "known messenger." Once Mr. West was replaced, Petitioner's plea negotiations were conducted with Mr. Rumora on behalf of Mr. White. Thus, while Petitioner consistently testified that Sheriff Crum and Commissioner Baisden had spoken with him about Mr. White and Commissioner Baisden even told Petitioner that "we" are going to have Mr. West replaced with Mr. Rumora as Mr. White's counsel, Petitioner denied that Commissioner Baisden was involved with Petitioner in negotiating Mr. White's plea bargain.

Petitioner's testimony before this Hearing Panel was consistent with the proffer given by Assistant United States Attorney Steven R. Ruby (hereinafter AUSA Ruby) in the District Court, which the District Court accepted after acknowledging that the proffer varied in some respects from the stipulation in the Information. During the hearing, the ODC read a portion of the statement of facts from Petitioner's underlying conviction and asked Petitioner to reconcile his testimony that the plea agreement he entered into with Mr. White was what he would typically offer in a case like his with the statement of facts which set forth that Petitioner entered into a more favorable plea agreement with Mr. White than he otherwise would have, with the knowledge that this was a necessary part of the scheme to get Mr. White to fire Mr. West. [Hrg. Tr. 90-91]. The question appeared to assume that there was some difference in Petitioner's testimony before the District Court and this Panel when, in fact, Petitioner's statements and testimony have remained consistent.

For Petitioner to be found guilty of violating 18 U.S.C. §242, the following elements had to be proven beyond a reasonable doubt, as explained in *United States v. Cowden*, 882 F.3d 464, 474 (4th Cir. 2018):

To obtain a conviction for deprivation of rights under color of law in violation of 18 U.S.C. § 242, the government must show that the defendant (1) willfully (2) deprived another individual of a constitutional right (3) while acting under color of law. *See United States v. Mohr*, 318 F.3d 613, 618–19 (4th Cir. 2003).

As applied to these facts, first, Petitioner willfully aided and abetted the denial of Mr. White's constitutional right to counsel. Petitioner does not dispute that he learned from Commissioner Baisden that Mr. White was being coerced to get new counsel, which directly impacted Mr. White's constitutional right to counsel. By negotiating with Mr. White's new counsel, Petitioner aided and abetted the others involved in the scheme to get rid of Mr. West as counsel. Second, Petitioner took these actions acting under color of law in his role as the Mingo County Prosecuting Attorney.

Contrary to some suggestions by the ODC, the United States was not required to prove that Petitioner gave Mr. White a better plea agreement than he would have received if Mr. West had remained his counsel or that Petitioner offered a deal that was better than the plea bargains, he had negotiated in other similar cases. It was enough that Petitioner gave Mr. White a better deal knowing that Mr. White's right to counsel had been violated by others.

In the District Court Information, the United States and Petitioner stipulated to the following facts establishing Petitioner's violation of 18 U.S.C. §242:

After G.W. fired C.W., Mr. Sparks entered into a plea agreement with G.W. under which three of five criminal counts pending against G.W.

were dismissed. As part of the plea agreement, Mr. Sparks also accepted a forfeiture from G.W. of \$10,000 less than the forfeiture Mr. Sparks originally intended to seek from G.W. Moreover, as part of the agreement, Mr. Sparks agreed to recommend that the sentences for the two counts to which G.W. would plead guilty would run concurrently rather than consecutively. Mr. Sparks did these acts knowing that a more favorable plea agreement for G.W. was a necessary part of the scheme to coerce G.W. into firing C.W. in order to protect the Sheriff. Because Mr. Sparks was the county's Prosecuting Attorney, his cooperation in this regard was necessary to the scheme's success.

AUSA Ruby provided the District Court with a carefully worded proffer explaining the theory supporting Petitioner's criminal conviction, which made some subtle distinctions from the above-quoted stipulation:

The right in question here, of course, is the right to defend oneself in a criminal matter with counsel of one's choosing and it would be the position of the United States that **by negotiating and entering into a plea agreement with the defendant knowing that he had been deprived of his counsel and with purpose of effecting that deprivation of counsel, the defendant himself falls within the language there in Section 242 that he willfully subjected the defendant to the deprivation of his rights.** (Emphasis added). [HEARING EXHIBITS at 75].

After conferring with Petitioner's counsel, AUSA Ruby made the following additional proffer:

Your Honor, after conferring with counsel, I can proffer, and I just wanted to make sure that I wasn't representing anything that was going to come into dispute, but our understanding has been, and I just confirmed it, that **the defendant was aware of the scheme to deprive or the effort to deprive George White of his right to counsel at least by the time of the hearing in which the hearing in which Mr. West, the initial counsel, withdrew as a result of a-a difficult and corrupt scheme and, in fact, the defendant participated and represented the State of West Virginia in that hearing at which Mr. West withdrew to proceed and so, based on**

that, I think the temporal sequence that the Court is determining under aiding and abetting would be satisfied. (Emphasis added). [HEARING EXHIBITS at 75].

The District Court accepted this proffer that Petitioner assented to and aided and abetted the scheme conducted by others in advance of the proposal. As noted by the District Court, this proffer technically varied from the allegations in the stipulation. However, all parties consented to the District Court accepting Petitioner's guilty plea, based upon the facts proffered by AUSA Ruby, even though some of the proffered facts varied from the stipulation. [HEARING EXHIBITS] at 80).

Petitioner did drop three of the five counts against Mr. White, which was consistent with Petitioner's practice in resolving multiple counts. This early part of the plea bargaining occurred when Mr. White was represented by Mr. West. Initially, Petitioner would ask for consecutive sentences, but often negotiated that part of the deal at a later time. In this case, Mr. West never got back to Petitioner to further discuss Mr. White's plea agreement. [Hrg. Tr. 26-27]. Thus, by the time Sheriff Crum and Commissioner Baisden had spoken with Petitioner about Mr. White, the deal on the table was a guilty plea to two counts and consecutive sentences.

As noted in the JOINT FINDINGS at 8, Petitioner explained to the District Court that, "Although my sentence recommendation in Mr. White's case was consistent with other comparable cases during my tenure, the end did not justify the means, and our system of criminal justice, the process, is even more important than the result, and I failed in the process." The fact that Petitioner offered Mr. White a deal that he would have provided to other similarly defendants does not lessen

Petitioner's criminal responsibility under 18 U.S.C. §242 because Petitioner knew that Mr. White's right to counsel had been violated.

After listening to Petitioner's statement, the District Court made the following comments:

And I want to make a comment, at this point, that in your remarks, and I think at least – at least in one written submission, it was asserted that your part in this was to stand by and not do something about it, **but that's inconsistent with the proffer that was made today and I don't for a minute believe that you were – simply took a passive role in not doing something to stop this and I – I'm giving you the benefit of the doubt by not placing at issue your acceptance of responsibility for making a statement like that.** (Emphasis added). (Exhibit 8, at 000099-000100).

Thus, even though the District Court questioned Petitioner's statement that his role in this scheme was passive, the District Court gave him the benefit of the doubt and accepted his guilty plea.

Prior to the events that resulted in Petitioner admitting his guilt in federal court, Petitioner was proud of his record as a prosecutor. "I obtained unprecedented numbers for felony convictions, murder convictions, and drug convictions. I achieved a one hundred percent trial conviction record in murder and drug cases." [HEARING EXHIBITS at 87]. However, despite his overall positive record as a prosecutor, Petitioner let down the citizens of Mingo County, who had elected him as prosecutor in three different elections, and ultimately had to admit his own wrongdoing that resulted in his criminal conviction.

In 2013, when Petitioner approached the United States Attorney's office to provide information that eventually resulted in Judge Thornsburg entering a guilty plea, he did not have any immunity or plea agreement in place nor did he have counsel at that time. Thus, through his own voluntary actions, Petitioner exposed himself to criminal liability.

In conjunction with the federal investigation, Petitioner provided substantial assistance to the federal government, which prompted former Judge Thornsby to plead guilty and to be removed from the bench. His actions in helping to remove a corrupt judge from the bench should be acknowledged, while at the same time Petitioner's actions caused him to consent to disbarment, to resign as the Mingo County Prosecuting Attorney, and ultimately to be convicted of a misdemeanor in federal court.

Petitioner entered his own plea agreement after accepting full responsibility for his own actions. At around the same time, Petitioner voluntarily consented to his disbarment from the practice of law and resigned as Mingo County Prosecuting Attorney. By agreeing to the criminal charge as well as his disbarment, Petitioner admitted his own wrongdoing and accepted the full consequences without requiring either the federal government or the ODC to go through the entire process available to him. After entering his guilty plea, Petitioner never filed any action seeking to have his conviction vacated. His unwavering acceptance of responsibility is another positive fact in favor of Petitioner's actions.

Petitioner did not obtain any personal benefit from the crime committed. While Petitioner acknowledges that his role in this matter was criminal and a violation of Mr. White's constitutional rights, he personally did not receive any monetary or nonmonetary benefit of any kind. Petitioner has never attempted to have his criminal conviction set aside or otherwise to dispute what he did. Finally, the U. S. Attorney's office noted at the sentencing hearing that throughout the investigation, Petitioner was candid and truthful and never once lied to the federal authorities. [HEARING EXHIBITS at 97].

Compare these facts with the facts in *Lawyer Disciplinary Board v. Moore*, 214 W.Va. 780, 591 S.E.2d 338 (2003), where former Governor Arch A. Moore, Jr., sought to have his law license reinstated after he had been convicted of several felonies. Following his convictions, instead of consenting to disbarment, Governor Moore contested it, which resulted in the West Virginia Supreme Court annulling his law license in *Committee on Legal Ethics v. Moore*, 186 W.Va. 127, 411 S.E.2d 452 (1991).

The Hearing Panel in Governor Moore's case made several findings that were accepted by the West Virginia Supreme Court. First, in rejecting his motion for reinstatement, the severity of the multiple felonies committed by Governor Moore was a factor. Second, while Governor Moore initially pleaded guilty, he later attempted to withdraw his guilty plea and claimed his innocence before the Hearing Panel and showed no remorse. Thus, he did not accept responsibility for his actions. Third, Governor Moore had a proven history prior to his criminal conviction of providing knowingly false statements to federal authorities. Finally, Governor Moore had a repeated pattern of accepting monetary gifts in return for political favors.

There is no comparison between the facts in *Moore* and the present case. Through Petitioner's voluntary consent to disbarment, resignation as Prosecuting Attorney, guilty plea to a misdemeanor, and full acceptance of his criminal wrongdoing without ever challenging his conviction, Petitioner has demonstrated how a responsible lawyer should act under these facts. Thus, while Petitioner's conviction based upon his guilty plea is for a serious offense, this misdemeanor is not the type of crime that should forever bar Petitioner from proving that he has met the requirements to practice law again.

Petitioner has met his burden of proving he presently has the integrity, moral character, and legal competence to practice law again if the Court grants this PETITION. Through his post-conviction actions and his regular work history, Petitioner also has demonstrated his rehabilitation. When he was confronted with his own criminal actions, instead of fighting the charges and demanding a trial, Petitioner accepted responsibility and entered a guilty plea. After being convicted, Petitioner served his full sentence, completed the supervised release without any violations, and never filed any habeas corpus or other action challenging his conviction. At about the same time he pleaded guilty, Petitioner voluntarily surrendered his law license, rather than going through the process of defending against the ethics charges. These are the actions of someone who recognized he had not lived up to the oath he had taken as a Prosecuting Attorney and a lawyer and accepted responsibility for his own actions without delay or legal maneuvering. Following his release from prison, Petitioner has abided by all laws and has never been accused of any wrongdoing. All of these voluntary actions demonstrate Petitioner's integrity and moral character.

Petitioner further established his integrity and moral character by assisting the United States in its prosecution of Judge Thornsby. Prior to his sentencing hearing, the United States filed UNITED STATES' MEMORANDUM IN SUPPORT OF MOTION FOR DOWNWARD DEPARTURE FOR SUBSTANTIAL ASSISTANCE. In this MOTION, the United States made the following arguments describing the substantial assistance Petitioner had provided during the course of the criminal investigation:

Mr. Sparks' assistance was particularly helpful to investigators during the course of the investigation of Mr. Thornsby. At the request of federal investigators, Mr. Sparks voluntarily provided hundreds of pages of documentation relating to the investigation.

Mr. Sparks also testified in the grand jury relating to the charges the United States brought against Mr. Thornsburg. The United States subsequently confronted Mr. Thornsburg with the information provided by Mr. Sparks and others, and advised Mr. Thornsburg that Mr. Sparks would testify against him at trial if called to do so. In the judgment of the United States, the prospect of Mr. Sparks' credible testimony against Mr. Thornsburg was a key factor in Mr. Thornsburg's decision to agree to plead guilty to conspiracy against civil rights in violation of 18 U.S.C. § 241. As the Court is aware, Mr. Thornsburg entered his guilty plea on October 2, 2013 and is awaiting sentencing. (Emphasis added). [HEARING EXHIBITS at 16-17].

After his release from prison, Petitioner returned to living in his home in Williamson, West Virginia. Petitioner has abided by all laws subsequent to his incarceration and has endeavored to live an exemplary life. To maintain his home and take care of his family, Petitioner has held a variety of jobs, including being employed as the manager of Southside Mall Theatre, a paralegal for Carlton Law Office, and a paralegal for Simpkins Law Office, PLLC, where Petitioner presently is employed.

Petitioner has demonstrated his legal competence and rehabilitation by being employed continuously from the time he was released from prison, starting with a movie theater job to working in various law firms as a paralegal. While working as a paralegal in the Simpkins Law Office, Petitioner has had the opportunity to work with First Amendment lawyers from around the country, assisting Mr. Simpkins and co-counsel from Los Angeles in litigating the defamation action pursued by Don Blankenship. This complex litigation has given Petitioner experience in assisting counsel to file and serve pleadings in federal court and to assist in scheduling and organizing the discovery.

Once Petitioner learned that a disbarred lawyer could attend Continuing Legal Education (CLE) seminars, he began earning CLE credits. During the 2020-2022 reporting period, Petitioner obtained 11.80 total credits, including 2.20 ethics credits. During the 2022-2024 reporting period, Petitioner already has earned 13.60 total credits. However, the limit for online CLE credits has been reduced to 12, thus his total has been reduced to 12 total credits, including 6.50 ethics credits. [HEARING EXHIBITS at 585-88]. Petitioner intends to attend some live CLE events to meet the total for the current reporting period.

As a part of this reinstatement procedure, a criminal records check was conducted on Petitioner. This federal and state records check revealed Petitioner has not been charged with or convicted of any crimes other than the one misdemeanor discussed herein. [HEARING EXHIBITS at 571-84].

A critical aspect of Petitioner's life is his faith and his belief in the power of redemption. At his sentencing hearing, Petitioner fully acknowledged his remorse and his failure to live up to his Christian ideals:

I was advised I was too honest to be in Mingo County politics. At the time, I considered such advice to be counterintuitive. Now, with the benefit of experience and hindsight, I realize how perceptive this advice was. Circumstances were essentially that I lacked the necessary skepticism to conceptualize the bigger picture.

As a committed follower of Jesus Christ, I prayed daily that I would glorify God and personify the virtues of Christian leadership as Mingo County Prosecuting Attorney.

My failure to intervene when others convinced Mr. White to change lawyers was a neglect of duty that tarnishes an otherwise positive legacy of Christian leadership and, for that, I apologize to Mr. White. [HEARING EXHIBITS at 87].

In addition to apologizing to Mr. White, Petitioner paid Mr. White \$5,000 out of his own pocket as part of a civil settlement reached in state court.

In accepting responsibility for his actions, Petitioner acknowledges he failed to abide by his obligations as a prosecutor:

Repentance: Based on my assessment of the evidence, George White was guilty of the crimes charged in the indictment. However, justice is a process, not an outcome. "A prosecutor has the responsibility of a minister of justice and not simply that of an advocate." W. Va. R. Prof. Cond. 3.8 cmt. 1. Commensurate with my duty to seek a conviction was my special obligation to prevent others from violating Mr. White's right to counsel of his choice as guaranteed by the Sixth Amendment to the United States Constitution. I knew that the presiding judge had personal animosity toward Mr. White's attorney. Nevertheless, I did not intervene to prevent a county commissioner from unduly influencing Mr. White to fire his attorney. My failure to act operated as a tacit approval of a wrongdoing that deprived Mr. White of a fundamental constitutional right. Suitably, I accepted responsibility for my misconduct with contrition. (Questionnaire, p. 18).

Prior to his conviction, Petitioner served as a member of the Board of Directors for the West Virginia Association of Counties, Chairman of the Board of Directors for the Southwestern Regional Day Report Center, and as a Deacon and Teacher in his local church. After being released from prison, Petitioner started writing a weekly theology column for a local newspaper and remains active in his church. Petitioner is engaged in his community and seeks to help out others. He has served holiday dinners to residents of a local substance use disorder treatment facility. Petitioner has participated in delivering Christmas presents on behalf of a local charitable organization. Following some flooding in eastern Kentucky, Petitioner assisted in unloading several thousand pounds of water and supplies for the flood victims. At the movie theater where

he was employed, Petitioner made arrangements to facilitate the showings of some movies to students in preschool and elementary school as well as for some churches.

Finally, although Petitioner had the legal right to petition for the reinstatement of his license five years after he consented to his disbarment, he decided the better approach was for him to wait and develop a better record to demonstrate that he "presently possesses the integrity, moral character and legal competence to resume the practice of law." Petitioner's goal was to wait almost ten years before filing a reinstatement petition in recognition of the seriousness of his actions and to develop a positive record that would support his reinstatement.

For Petitioner to meet this burden, all he can do is explain to the Court his full compliance with the criminal sentence and post-conviction requirements, his acceptance of responsibility, his actions to rehabilitate himself, his remorse for his own actions, his efforts to rejoin the work force after being incarcerated to help take care of his family, his keeping abreast of the law by obtaining CLE credits and working actively as a paralegal, his acceptance of his own guilt, and his efforts to prove that he once again would be a valuable asset in his community as a practicing lawyer. Petitioner hopes to serve the members of his community again by practicing law and helping his neighbors with whatever legal issues they face.

In the hearing, John Mark Hubbard, who is a national account manager for United Central Industrial Supply and a former Mingo County Commissioner, testified that the community has fully embraced Petitioner and that the reinstatement of Petitioner's law license would not have an adverse effect on public confidence in the administration of justice. [JOINT FINDINGS at 23]. The ODC also did not receive any negative comments regarding Petitioner's petition to have his law license reinstated.

The record also includes letters of support from several community leaders, public officials, and lawyers, including Jonathan "Duke" Jewell, who presently serves as the Mingo County Prosecuting Attorney; Robert B. "Rob" Kuenzel, a former State Trooper who has his own law firm Kuenzel Law, PLLC, in Chapmanville, West Virginia; Christian R. Harris, who has a law firm in Williamson, West Virginia; Greg "Hootie" Smith, who has his own law firm in Williamson, West Virginia; Diana L. Maynard, who is the Auditor for the City of Williamson, West Virginia; and Lonnie Hannah, the Mingo County Circuit Clerk. Additional letters of support were provided by Jacqueline May, a school teacher, Mitzi Cross, a school teacher, and Stephanie Austin, a legal assistant.

There is nothing in the record suggesting that permitting Petitioner once again to return to the privilege of practicing law would have any negative impact on the public or the administration of justice. Petitioner is highly motivated to prove himself to this Panel, the West Virginia Supreme Court, and to his friends and neighbors that he can make a valuable contribution to his community by once again practicing law.

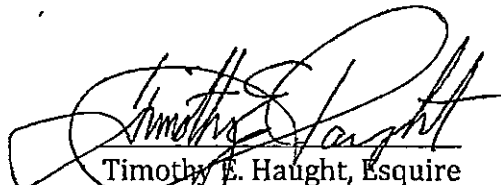
The Hearing Panel finds that Petitioner C. Michael Sparks has proven, by clear and convincing evidence, that he possesses the integrity, moral character and legal competence to resume the practice of law. Furthermore, Petitioner has demonstrated a record of rehabilitation and there is no evidence suggesting that his reinstatement will have any adverse effect on the public confidence in the administration of justice. Finally, in light of Petitioner's demonstrated record developed after being released from prison, including his work history, community involvement, and waiting for almost ten years before seeking reinstatement, the Hearing Panel finds Petitioner's reinstatement is appropriate.


V. RECOMMENDED DECISION

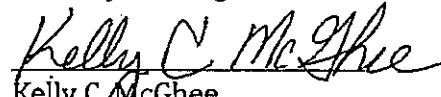
Wherefor, for all of the foregoing the Hearing Panel recommends that:

1. Petitioner be reinstated to the practice of law;
2. Petitioner's practice of law be supervised for a period of two (2) years following his reinstatement pursuant to written agreement between Petitioner, his supervisor, and the Office of Lawyer Disciplinary Counsel. The agreement shall, among other matters, require the supervising attorney to: meet at least twice per month with Petitioner and have complete access to Petitioner's files, calendar and trust account. The supervising attorney shall file monthly reports with the Office of Lawyer Disciplinary Counsel and respond to inquiries by the Office. Petitioner shall be candid and cooperative with the supervising attorney and shall follow his or her recommendations and directives. Petitioner shall not be reinstated until this agreement is executed by all parties;
3. Prior to reinstatement, Petitioner be required to pay his dues to the West Virginia State Bar and complete all required CLEs; and
4. Petitioner be ordered to reimburse the Lawyer Disciplinary Board the costs of these reinstatement proceedings pursuant to Rule 3.15 of the Rules of Lawyer Disciplinary Procedure.

Entered this 11th day of March, 2024.


Timothy E. Haught, Esquire
Hearing Panel Chairperson


Margaret E. Lewis, Esquire
Hearing Panel Member (By
Timothy E. Haught With Permission)

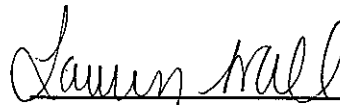

Kelly C. McGhee
Layperson Member (By Timothy
E. Haught With Permission)

CERTIFICATE OF SERVICE

This is to certify that I, **Lauren M. Hall**, Lawyer Disciplinary Counsel for the Office of Lawyer Disciplinary Counsel, have this day, the 12th day of March, 2024, served a true copy of the foregoing "**Report of the Hearing Panel Subcommittee Regarding the Reinstatement of C. Michael Sparks**" Lonnie C. Simmons, counsel for Petitioner, by mailing the same via United States Mail, with sufficient postage, and electronically, through File and Serve Xpress, to the following address and e-mail:

Lonnie C. Simmons, Esquire
Post Office Box 1631
Charleston, West Virginia 25326
Lonnie.Simmons@dbdlawfirm.com

Notice to Respondent: for the purpose of filing a consent or objection hereto, pursuant to Rule 3.33 of the Rules of Lawyer Disciplinary Procedure, either party shall have ten (10) days from today's date to file the same.



Lauren M. Hall