

BEFORE THE WEST VIRGINIA SUPREME COURT OF APPEALS

No. 23-71

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**IN RE: C. MICHAEL SPARKS,**  
a disbarred by consent former member of the West Virginia State Bar,

Petitioner.

**PETITIONER'S BRIEF**

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**PETITIONER'S BRIEF**

**I. Introduction**

*To the Honorable Justices of the  
West Virginia Supreme Court of Appeals:*

Petitioner C. Michael Sparks welcomes the opportunity to prove to this Court that after voluntarily consenting to his disbarment in October, 2013, he has demonstrated through his actions that he should have the privilege of practicing law in this State reinstated. From 2004 through October, 2013, Petitioner served the citizens of Mingo County as their Prosecuting Attorney. On October 11, 2013, the Court accepted Petitioner's affidavit, filed pursuant to Rule 3.25 of the West Virginia Rules of Lawyer Disciplinary Procedure, voluntarily consenting to his disbarment as a lawyer. In connection with his voluntary disbarment, Petitioner also resigned as Mingo County Prosecuting Attorney.

In that same time period, Petitioner pleaded guilty in the United States District Court for the Southern District of West Virginia (hereinafter referred to as the District Court) to the misdemeanor violation of 18 U.S.C. §242, deprivation of rights under the color of law, 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. As a result of this misdemeanor conviction, Petitioner served his twelve month sentence, paid all fines and assessments, and met all of his obligations while on supervised release.

After not practicing law for about ten years and taking a variety of jobs, which included cleaning a movie theater's bathrooms, on February 8, 2023, Petitioner filed **VERIFIED PETITION SEEKING THE REINSTATEMENT OF THE LAW LICENSE OF C. MICHAEL SPARKS**, respectfully seeking to have his law license reinstated so that he can return to the privilege of practicing law in West Virginia. On September 6, 2023, the Hearing Panel heard testimony from Petitioner and John Mark Hubbard, who is a national account manager for United Central Industrial Supply and a former Mingo County Commissioner.

On March 11, 2024, the Hearing Panel issued its **REPORT OF THE HEARING PANEL SUBCOMMITTEE REGARDING THE REINSTATEMENT OF C. MICHAEL SPARKS** finding that Petitioner has complied with all of the requirements and recommending the following to this Court:

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.

The Office of Disciplinary Counsel (ODC) and Petitioner consented to this recommendation. In an order entered November 22, 2024, this Court scheduled this case for briefing and Rule 19 oral argument.

## **II. Issue presented**

**Whether Petitioner has demonstrated through his actions that this Court should reinstate Petitioner’s law license, as recommended by the Hearing Panel and consented to by the Office of Disciplinary Counsel and Petitioner?**

## **III. Statement of the case**

### **A. Petitioner’s background**

In this **BRIEF**, Petitioner will provide the Court with a summary of the facts found by the Hearing Panel in its recommended order. Petitioner is currently about 54 years old, is married, and has two daughters. (Hearing Panel Order at 3). Petitioner grew up in Delbarton, Mingo County, West Virginia where he attended Varney Grade School, Matewan Junior High, and Matewan High School. Thereafter, Petitioner attended the University of Pikeville, on a presidential scholarship and received a Bachelor of Science in 1992. In 1996, Petitioner graduated from West Virginia University College of Law and was admitted to the West Virginia State Bar in September of that year. (*Id.*).

Petitioner opened up a solo law practice in Mingo County handling divorce cases, criminal defense, and personal injury. He also served as the Mental Hygiene Commissioner. 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. In 2004, Petitioner was elected to the position of Mingo County Prosecuting Attorney. Petitioner remained in this position until his resignation in October 2013. (Hearing Panel Order at 3-4).

### **B. Petitioner’s voluntary assistance substantially aided the federal authorities in convicting former Mingo County Circuit Court Judge Michael Thornsbury**

Petitioner testified that some time in April 2013, following the murder of Mingo County Sheriff Eugene Crum, there were rumors that federal authorities were conducting an investigation into Mingo County political corruption. After discussing this matter with one of his investigators, Petitioner decided to meet with law enforcement to share whatever information he had that may be relevant to their investigation. At that time, Petitioner did not have a lawyer nor had he negotiated any deal with the federal authorities. (Hearing Tr. at 13-16).

In May 2013, Petitioner began providing assistance to federal authorities, which resulted in former Mingo County Circuit Court Judge Michael Thornsby being indicted in August, 2013. On August 15, 2013, the ODC opened a complaint against Petitioner, based upon allegations made in the indictment against Judge Thornsby. On September 19, 2013, an information was issued against Judge Thornsby charging him with depriving George White of his right to counsel. A short time later an information was issued against Petitioner charging him with violating 18 U.S.C. §242, for depriving George White of his right to counsel. On November 18, 2013, Petitioner executed a stipulation of facts and plea agreement admitting this charge. (Hearing Panel Order at 5-7).

Under his plea agreement, Petitioner agreed to resign as Mingo County Prosecuting Attorney and to surrender voluntarily his license to practice law. On or about February 27, 2014, the United States filed a Motion for Downward Departure for Substantial Assistance detailing how Petitioner's assistance greatly aided in the federal investigation and was instrumental in bringing former Judge Thornsby to justice. (Hearing Panel Order at 7).

Because there were some questions raised initially by the ODC regarding Petitioner's acceptance of his guilt and the factual basis for his conviction, the following extensive findings from the Hearing Panel are relevant:

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:

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...

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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 Thornsbury. 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. (Hearing Panel Order at 7-9).

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 (4<sup>th</sup> 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).

The Hearing Panel specifically found to obtain a conviction under this statute, the United States first had to prove 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.

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. (Hearing Panel Order at 30-31).

**C. Petitioner's actions, work history, and community activities following his consent to disbarment**

Petitioner was sentenced to serve one year in prison and one year of supervised release upon his release from prison. Prior to serving his prison sentence, Petitioner worked as a manager at the Southside Mall Theatre and as a paralegal at Carlton Law Office in Williamson, West Virginia. Following his release from prison, Petitioner continued to work at the Southside Mall Theatre and Carlton Law Office until December 2015. Thereafter, Petitioner began working as a paralegal at Simpkins Law Office in Williamson, West Virginia in January 2016, where he is employed presently. Petitioner currently resides in Mingo County.

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. Petitioner obtained 11.80 total Continuing Legal Education credits, including 2.20 ethics credits, during the 2020-2022 reporting period. Petitioner has obtained 13.60 Continuing Legal Education credits during the 2022-2024 reporting period. (Hearing Panel Order 9-10).

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 Thornsbury et al.*, Kanawha County Circuit Court Case No. 16-C-87; 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. Pursuant to the terms of the settlement agreement in *George White v. C. Michael Sparks et al.*, Petitioner personally paid Mr. White \$5,000.00. (Hearing Panel Order at 10).

**D. Prior to disbarment, Petitioner was admonished in three separate cases**

According to the ODC records, prior to engaging in the conduct that led to his disbarment, Petitioner was the subject of three disciplinary sanctions. Petitioner was admonished 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. In May, 2007, Petitioner was admonished 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. In June, 2009, Petitioner was admonished 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. At the time of his disbarment, Petitioner was the subject of five open disciplinary complaints, all of which were closed after Petitioner's disbarment. (Hearing Panel Order at 10-11).

**IV. Summary of argument**

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 and that he has been rehabilitated. Rehabilitation 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.

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 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.

To meet this burden, all Petitioner 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.

Finally, the Hearing Panel found community support for Petitioner returning to the practice of law. The ODC also did not receive any negative comments regarding Petitioner's petition to have his law license reinstated.

#### **V. Statement regarding oral argument and decision**

The Court already has determined that Rule 19 oral argument will be scheduled in this case. Petitioner personally will appear before this Court and orally argue in favor of his reinstatement to provide the Court with the opportunity to ask Petitioner directly any questions it may have regarding whether or not Petitioner once again should be given the privilege of practicing law in this State. Petitioner takes no position on whether the decision should be authored by a Justice or not.

#### **VI. Argument**

##### **A. Applicable legal standard for reinstatement**

In Syllabus Points 3 and 4 of *In re: Petition for Reinstatement of Keith L. Wheaton*, 245 W.Va. 199, 858 S.E.2d 662 (2021), the Court repeated the general considerations that must be met by a lawyer seeking to have his or her law license reinstated:

3. "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." Syllabus Point 1, *In re Brown*, 166 W. Va. 226, 273 S.E.2d 567 (1980).

4. "Rehabilitation 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." Syllabus Point 2, *In re Brown*, 166 W. Va. 226, 273 S.E.2d 567 (1980).

Petitioner also recognizes that ethical violations by a lawyer holding public office are viewed as more egregious. Syllabus Point 4 of *Lawyer Disciplinary Board v. Plants*, 239 W.Va. 347, 801 S.E.2d 225 (2017).

The Hearing Panel focused on the following factors to be considered in deciding whether or not a lawyer has demonstrated the requisite rehabilitation since disbarment:

"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.

Petitioner submits he has met all of the standards required to have his petition for reinstatement and he humbly and respectfully hopes the Court will agree with the assessment of the Hearing Panel and the ODC who have recommended reinstatement of Petitioner's law license.

**B. Seriousness of Petitioner's conduct leading to his disbarment**

The misdemeanor criminal offense committed by Petitioner is a serious offense, made even more serious because Petitioner was the Mingo County Prosecuting Attorney at the time of the offense. Due to the seriousness of this offense, Petitioner voluntarily consented to his disbarment.

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 Thornsby 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).

Finding comparable cases can be challenging because all of these decisions are very fact specific. Here are some decisions involving prosecuting attorneys who either were charged with or convicted of some crime. In *Lawyer Disciplinary Board v. Plants*, 239 W.Va. 347, 801 S.E.2d 225 (2017), the Kanawha County Prosecuting Attorney was charged with misdemeanor domestic battery of a child. Mr. Plants successfully completed a program that resulted in the misdemeanor charges being dismissed. Under these facts, the Court concluded that a public reprimand was appropriate. In *Committee on Legal Ethics v. Roark*, 181 W.Va. 260, 382 S.E.2d 313 (1989), the Kanawha County Prosecuting Attorney had pleaded guilty to six felonies involving possession of cocaine. Under these facts, the Court held that a three year suspension was appropriate.

Thus, while there is no black and white rule on the appropriate discipline to impose when a prosecutor is charged with or convicted of a crime, the Court has never held that these facts justify the permanent disbarment of the prosecutor involved. In 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.

**C. Integrity, moral character, legal competence, and rehabilitation**

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.

The Hearing Panel focused, in part, on Petitioner's actions in connection with the criminal prosecution of Judge Thornsby as establishing his integrity and moral character. 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. Thornsby. The United States subsequently confronted Mr. Thornsby with the information provided by Mr. Sparks and others, and advised Mr. Thornsby 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. Thornsby was a key factor in Mr. Thornsby'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. Thornsby entered his guilty plea on October 2, 2013 and is awaiting sentencing. (Emphasis added). (HEARING EXHIBITS at 16-17).**

(Hearing Panel Order at 36-37).

The Hearing Panel further found that 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. (Hearing Panel Order at 37).

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).

With respect to his moral character and integrity, the Hearing Panel noted that 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. (Hearing Panel Order at 38-39).

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 was an active member of his community and 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’ 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. (Hearing Panel Order at 39-40).

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.

**D. Public will benefit from Petitioner returning to the practice of law**

Finally, the Hearing Panel found community support for Petitioner returning to the practice of law. 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. (Hearing Panel Order at.

## **VII. Conclusion**

In its final conclusion, the Hearing Panel held:

The Hearing Panel finds that Petitioner C. Michael Sparks has proven, by clear and convincing evidence, that 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. (Hearing Panel Order at 41).

Petitioner C. Michael Sparks respectfully asks the Court to adopt the final order recommended by the Hearing Panel and enter an order reinstating Petitioners license to practice law in this State, pursuant to the conditions identified by the Hearing Panel.

**C. MICHAEL SPARKS**, Petitioner,

–By Counsel–

/s/ Lonnie C. Simmons

Lonnie C. Simmons (W.Va. I.D. No. 3406)

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/s/ C. Michael Sparks

*Pro se*



BEFORE THE WEST VIRGINIA SUPREME COURT OF APPEALS

No. 23-71

**IN RE: C. MICHAEL SPARKS,**  
a disbarred by consent former member of the West Virginia State Bar,

Petitioner.

**CERTIFICATE OF SERVICE**

I, Lonnie C. Simmons, do hereby certify that on January 6, 2025, the foregoing **PETITIONER'S BRIEF** was filed with the Court using the File & Serve Xpress System and served electronically on counsel of record

\_\_\_\_\_

/s/ Lonnie C. Simmons  
Lonnie C. Simmons (W.Va. I.D. No. 3406)