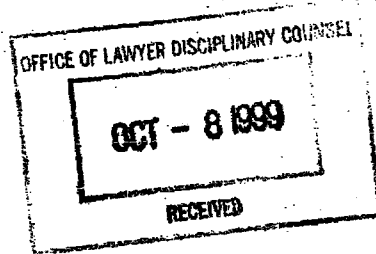


*A+ Law Clinic, LLC*

Gerald B. Hough, Attorney at Law  
7 North Court Street  
Glenville, WV 26351  
Tel. (304) 462-7007  
Fax (304) 462-7010



October 7, 1999

State of West Virginia  
Office of Disciplinary Counsel  
Suite 1710  
Huntington Bank Building  
900 Lee Street, East  
Charleston, WV 25301-1721

RE: Answer to Complaint of Anita P. Wiseman  
I.D. No. 99-02-303

Dear Sirs:

I respectfully enclose, herewith, my response to the complaint filed by Anita P. Wiseman.  
I have also forwarded a true copy of the same to the complainant.

Respectfully,

*Gerald B. Hough*  
Gerald B. Hough  
Attorney at Law

SEH

Enclosure: Verified Response to Complaint  
CC: Anita P. Wiseman



Opposition to Motion to Depose," Respondent makes an incorrect statement of law. Respondent says that he cannot be compelled to testify in the hearing on the Statement of Charges. To the contrary, the Office of Disciplinary Counsel certainly may call Respondent as a witness to testify at the hearing. Lawyer disciplinary proceedings are not criminal prosecutions.<sup>1</sup> Indeed, Rule 8.1(b) of the Rules of Professional Conduct requires that lawyers provide information to the Office of Disciplinary Counsel and Lawyer Disciplinary Board. The Respondent may assert his Fifth Amendment right against self incrimination if he is worried about a related criminal prosecution, but Disciplinary Counsel is presently at a loss to know what the criminal implications of the testimony would be.

ODC renews its request for leave to take the discovery deposition of Respondent Gerald Hough.

The Office of Disciplinary Counsel,  
By counsel,



---

Amie L. Johnson [Bar #6623]  
Disciplinary Counsel  
900 Lee St., East, Ste 1710  
Charleston, WV 25301  
(304) 558-7999  
Fax (304) 558-4015

---

<sup>1</sup>There are at least two per curiam decisions in West Virginia applying this principle: Committee on Legal Ethics v. Graziani, 157 W. Va. 167, 200 S.E.2d 353 (1973) (per curiam); and Committee on Legal Ethics v. Pence, 161 W. Va. 240, 240 S.E.2d 668 (1977) (per curiam).

**FILE COPY**

**DO NOT REMOVE  
FROM FILE**

**BEFORE THE HEARING PANEL SUBCOMMITTEE  
OF THE  
LAWYER DISCIPLINARY BOARD**

<b>FILED</b>
FEB 8 2001
RORY L. PERRY II, CLERK SUPREME COURT OF APPEALS OF WEST VIRGINIA

**Re: GERALD B. HOUGH, a member of  
The West Virginia State Bar**

**I.D. No.: 99-02-303  
Sup. Ct. No.: 28794**

---

**OFFICE OF DISCIPLINARY COUNSEL'S REPLY  
TO RESPONDENT'S REPLY IN OPPOSITION  
TO MOTION TO DEPOSE**

---

The Office of Disciplinary Counsel [ODC] replies as follows:

Respondent asserts that ODC failed to provided the disclosures provided by Rule 3.4 of the Rules of Lawyer Disciplinary Procedure, inhibiting Respondent's ability to adequately prepare for any deposition of Respondent Hough. However, these disclosures were made to Respondent's counsel on February 2, 2001. The hearing is not set until May 1, 2001. Disciplinary Counsel provided every document in her possession except ODC's internal notes, which are protected attorney-client and work product materials. ODC acknowledges that this information was approximately 2 ½ weeks late. However, it is believed that most, if not all, of the documents and information in the discovery were already in Respondent's possession. Furthermore, ODC did not obtain most of the documents which comprised the discovery [the Circuit Court file in State v. Perez] until early January, several days after the Statement of Charges was served.

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

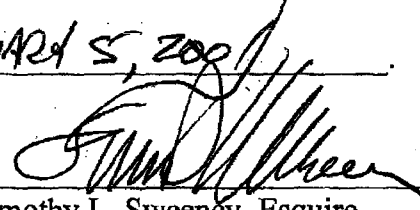
IN RE: GERALD HOUGH, an active member of  
The West Virginia State Bar

I.D. No.: 99-02-303  
Supreme Ct. No.: 28794


ORDER EXTENDING DEADLINE TO HOLD HEARING

Due to normal scheduling difficulties, for good cause shown, the deadline to hold the hearing in this matter is **ORDERED** extended to, and including, May 1, 2001, unless later modified by the Hearing Panel Subcommittee or its Chairperson.

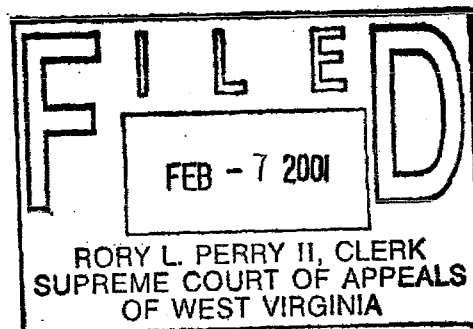
Entered this day, FEBRUARY 5, 2001

  
Timothy L. Sweeney, Esquire  
Subcommittee Chairperson

Prepared by:



Amie L. Johnson [Bar 6623]  
1710 Huntington Bank Building  
900 Lee Street, East  
Charleston, West Virginia 25301  
(304) 558-7999  
Fax (304) 558-4015



BEFORE THE LAWYER DISCIPLINARY BOARD  
STATE OF WEST VIRGINIA

In Re: **GERALD B. HOUGH, an active member of  
The West Virginia State Bar**

I.D. No.: 99-02-303  
Sup. Ct. No.: 28794

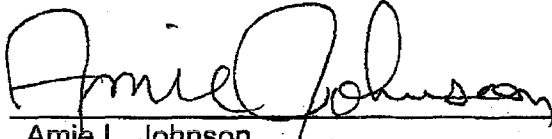
---

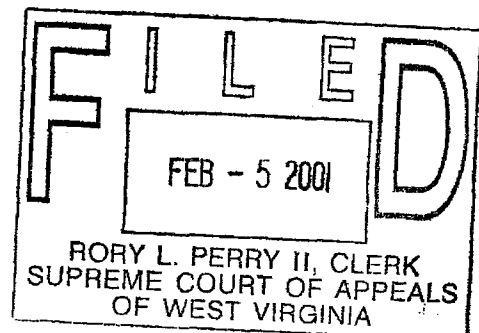
**CERTIFICATE OF SERVICE**

---

This is to certify that I, Amie L. Johnson, Disciplinary Counsel for the Office of Disciplinary Counsel, have this day, February 2, 2001, served a true copy of the foregoing "Office of Disciplinary Counsel's Discovery Pursuant to Rule 3.4 of the Rules of Lawyer Disciplinary Procedure" with attachments, upon James W. Douglas, Esquire, Counsel for Respondent, by mailing the same, United States Mail with sufficient postage, to the following address:

James W. Douglas, Esquire  
181B Main Street  
Sutton, West Virginia 26601

  
Amie L. Johnson



---

---

**CERTIFICATE OF SERVICE**

---

---


This is to certify that I, Amie L. Johnson, Lawyer Disciplinary Counsel for the Office of Disciplinary Counsel, have this day, the February 2, 2001, served a true copy of the foregoing "NOTICE OF PREHEARING AND HEARING" upon James W. Douglas, counsel for Respondent Gerald Hough, and upon the Hearing Panel Subcommittee by mailing the same, United States Mail with sufficient postage, to the following addresses:

James W. Douglas, Esquire  
181B Main Street  
Sutton, WV 26601

Cheryl Connelly, Esquire  
P. O. Box 1835  
Huntington, WV 25719

Timothy L. Sweeney, Esquire  
P. O. Box 340  
St. Marys, WV 26170

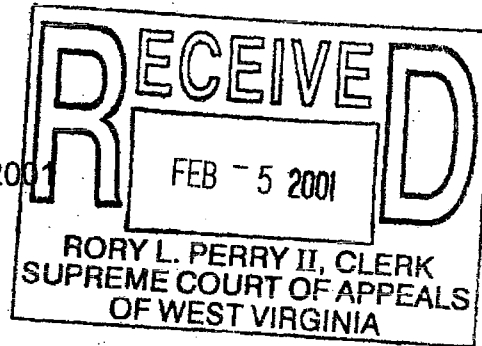
Glen Walker, CPA  
P. O. Box 1646  
Morgantown, WV 26507

  
\_\_\_\_\_  
Amie L. Johnson

STATE OF WEST VIRGINIA  
STATE OF WEST VIRGINIA  
**OFFICE OF DISCIPLINARY COUNSEL**  
SUITE 1710, HUNTINGTON BANK BUILDING  
900 LEE STREET, EAST  
CHARLESTON, WEST VIRGINIA 25301  
OFFICE: (304) 558-7999  
FAX: (304) 558-4015

LAWRENCE J. LEWIS  
CHIEF LAWYER DISCIPLINARY COUNSEL  
AMIE LANGFITT JOHNSON  
LAWYER DISCIPLINARY COUNSEL  
MORGAN PALMER GRIFFITH  
LAWYER DISCIPLINARY COUNSEL

February 2, 2001



Rory L. Perry, Clerk  
Supreme Court of Appeals of West Virginia  
State Capitol Building 1, Room E-317  
Charleston, West Virginia 25305

**In re:           Lawyer Disciplinary Board v. Gerald Hough, Esquire**  
**I.D. No.: 99-02-303**  
**Supreme Court No. 28794**

Dear Mr. Perry:

Enclosed for filing please find the original "Notice of Hearing" in the above-referenced matter.

Sincerely,

A handwritten signature in cursive script that reads "Amie L. Johnson".

Amie L. Johnson

ALJ/djw  
Enclosure

cc: James W. Douglas, Esquire, Respondent's Counsel  
Timothy L. Sweeney, Esquire  
Glenn Walker, CPA  
Cheryl Connelly, Esquire

**GERALD B. HOUGH**, a Member  
of the West Virginia State Bar  
By Counsel



**JAMES WILSON DOUGLAS, L.C.**

Attorney at Law

PO Box 425

181B Main Street

Sutton, West Virginia 26601

WVSB No. 1050

Counsel for Respondent

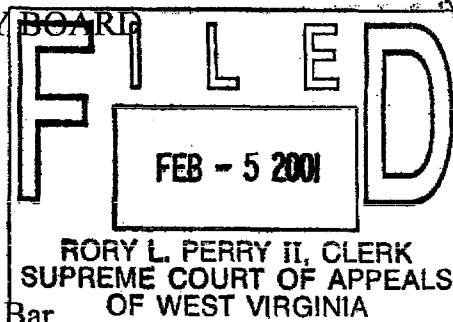


**FILE COPY**

BEFORE THE LAWYER DISCIPLINARY BOARD  
STATE OF WEST VIRGINIA

I.D. No. 99-02-303  
Sup. Ct. No. 28794

In Re: **GERALD B. HOUGH**,  
a Member of the West Virginia State Bar



**REPLY IN OPPOSITION TO MOTION TO DEPOSE**

Comes now the Respondent member, **GERALD B. HOUGH**, by his attorney James Wilson Douglas, and in and for his response in opposition to the Disciplinary Counsel's Motion to Depose the Respondent, heretofore regularly filed, does assign, in support thereof, the following grounds:

1. That the Office of Disciplinary Counsel has failed, neglected and refused to abide by the mandatory and affirmative discovery submissions within established time lines, as promulgated by Rule 3.4, RLDP; and therefore, the Respondent could not adequately prepare for any deposition;
2. That Rule 3.4, RLDP, under the alleged terms of which Respondent's discovery deposition is sought, makes no provision for, and, in fact, proscribes, the deposition of any person other than the complainant by the Respondent. The Respondent has merely pled defenses and not prosecuted a complaint;
3. That the Office of Disciplinary Counsel has in its possession at least

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

**IN RE:**           **GERALD HOUGH**, an active member of  
                  The West Virginia State Bar

**I.D. No.:** 99-02-303  
**Supreme Ct. No.:** 28794

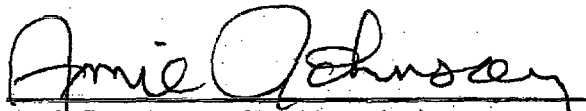
**MOTION TO EXTEND DEADLINE TO HOLD HEARING**

A Statement of Charges was filed against the above-named attorney by the Office of Disciplinary Counsel on December 20, 2000. Disciplinary Counsel has been advised by the Office of the Clerk of the Supreme Court of Appeals that service of the charges was obtained on December 22, 2000.

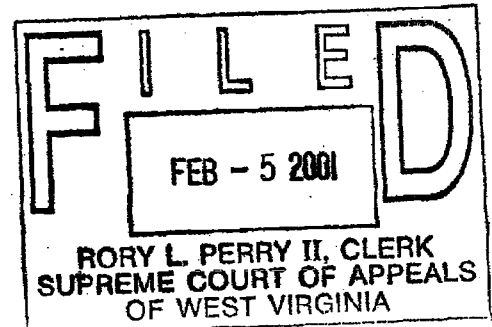
Pursuant to Rule 3.4 of the Rules of Lawyer Disciplinary Procedure, a hearing is to be conducted on formal charges within 120 days of service. Due to normal scheduling conflicts among the schedules of the three Subcommittee Members, Disciplinary Counsel, and Respondent's Counsel, the hearing is set for May 1, 2001. May 1 is slightly beyond the 120 day deadline. Pursuant to Rule 3.4, the Subcommittee Chairperson may extend the deadlines for good cause shown.

Accordingly, it is requested that the deadline by which to hold the hearing be extended to May 1, 2001, unless later modified by the Subcommittee.

Office of Disciplinary Counsel by



Amie L. Johnson (Bar No. 6623)  
1710 Huntington Bank Building  
900 Lee Street, East  
Charleston, West Virginia 25301  
(304) 558-7999  
fax (304) 558-4015



**CERTIFICATE OF SERVICE**

I, JAMES WILSON DOUGLAS, the undersigned attorney, do hereby certify that a true copy of the foregoing Response to Statement of Charges was deposited in the regular United States Mail, in an envelope properly stamped and addressed to the following:

Office of the Clerk  
Supreme Court of Appeals  
1900 Kanawha Boulevard, East  
State Capitol, Building 1, Room E-317  
Charleston, West Virginia 25305

and

Amie L. Johnson  
Office of Disciplinary Counsel  
Suite 1710, Huntington Bank Building  
900 Lee Street, East  
Charleston, West Virginia 25301

on this 19<sup>th</sup> day of January, 2001.



JAMES WILSON DOUGLAS

the penumbras of confidentiality of Glenville State College, as recited in Paragraph 6. thereof; and therefore, Respondent can neither admit nor deny the same.

#### IV

That the Respondent denies each and every Paragraph of the Statement of Charges, not specifically admitted herein, and the Respondent demands strict proof thereof.

#### PRAYER

**WHEREFORE** Respondent prays that the Statement of Charges herein, be dismissed; that the relief requested or implied therein be denied; and that the Respondent be awarded his costs and attorney fees incurred hereby and in this behalf expended; and such other and further relief, as in the premises, may be meet.

**GERALD B. HOUGH**, a Member  
of the West Virginia State Bar  
By Counsel



**JAMES WILSON DOUGLAS, L.C.**

Attorney at Law  
PO Box 425  
181B Main Street  
Sutton, West Virginia 26601  
WVSB No. 1050  
Counsel for Respondent

### **THIRD DEFENSE**

That Statement of Charges herein is aided in complaint, motivated in allegation and inspired in prosecution by local political considerations associated with and incidental to the Respondent's determined challenge to an incumbent public official, and his successful candidacy for and ultimate election as Prosecuting Attorney of Gilmer County.

### **FOURTH DEFENSE**

That the contemplated testimony of the two (2) anticipated principal witnesses against the Respondent is inherently untrustworthy, unreliable and thus, inconclusive and to be afforded little weight, as a matter of law, due to the considerations, to be proven in defense of the Respondent, as specified in the preceding THIRD DEFENSE, and hostilities generated by the Respondent's practice of civil law.

### **FIFTH DEFENSE**

That in evaluation of mitigation factors, if necessary, and in addition to any of the elements enumerated in Rule 3.16 of the RLDP, any acts of commission or omission on the part of the Respondent arose or were occasioned by the Respondent's zealous representation of a client; and, Respondent's admission to the West Virginia State Bar on October 13, 1998, or one (1) month to the day before the alleged offense(s) set forth in the Statement of Charges herein.

**BEFORE THE HEARING PANEL SUBCOMMITTEE  
OF THE  
LAWYER DISCIPLINARY BOARD**

**Re: GERALD B. HOUGH**, a member of  
The West Virginia State Bar

**I.D. No.:** 99-02-303  
**Sup. Ct. No.:** 28794

---

---

**CERTIFICATE OF SERVICE**


---

---

This is to certify that I, Amie L. Johnson, Lawyer Disciplinary Counsel for the Office of Disciplinary Counsel, have this day, the 30th day of January, 2001, served a true copy of the foregoing "**OFFICE OF DISCIPLINARY COUNSEL'S MOTION TO DEPOSE RESPONDENT GERALD B. HOUGH**" upon James W. Douglas, counsel for Respondent Gerald Hough, and upon the Hearing Panel Subcommittee Chairperson by mailing the same, United States Mail with sufficient postage, to the following addresses:

James W. Douglas, Esquire  
181B Main Street  
Sutton, WV 26601

Timothy L. Sweeney, Esquire  
P. O. Box 340  
St. Marys, WV 26170

  
Amie L. Johnson

**BEFORE THE HEARING PANEL SUBCOMMITTEE  
OF THE  
LAWYER DISCIPLINARY BOARD**

**Re: GERALD B. HOUGH, a member of  
The West Virginia State Bar**

<b>FILED</b>	I.D. No.: 99-02-303 Sup. Ct. No.: 28794
<b>JAN 31 2001</b>	
<b>RORY L. PERRY II, CLERK SUPREME COURT OF APPEALS OF WEST VIRGINIA</b>	

**OFFICE OF DISCIPLINARY COUNSEL'S MOTION  
TO DEPOSE RESPONDENT GERALD B. HOUGH**

**NOW COMES** the Office of Disciplinary Counsel pursuant to Rule 3.4 of the Rules of Lawyer Disciplinary Procedure to move the Hearing Panel Subcommittee Chairperson to permit Disciplinary Counsel to take the sworn discovery deposition of Respondent Gerald B. Hough. After a formal Statement of Charges is issued, Rule 3.4 does not permit the Office of Disciplinary Counsel to depose any witnesses absent leave of the Subcommittee Chairperson.

In his Response to the Statement of Charges, Respondent for the first time raises certain responses and defenses which Disciplinary Counsel wishes to investigate. For example, in his "Second Defense", Respondent claims that the Statement of Charges is a retaliatory measure by the Complainant. Disciplinary Counsel would like to inquire into the basis of this assertion. As a second example, in his "Third Defense", Respondent claims that this Statement of Charges is motivated and inspired by local political considerations. Disciplinary Counsel would like to explore Respondent's basis for this assertion. There are also other aspects of Respondent's Response to the Statement of Charges which Disciplinary Counsel would explore.

not later than 10 days before the pretrial hearing. The opposing party shall respond within 7 days of receipt of said motions.

K. **Continuances.** Motions to Continue shall be filed with the Clerk of the Supreme Court of Appeals and the Chairperson of the Hearing Panel Subcommittee no later than 14 days prior to the date of the hearing other than in the case of emergency. (Rule 3.4).

L. **Hearing.** The hearing shall be open to the public pursuant to Rule 3.6.

M. **Closing Arguments.** At the discretion of the Hearing Panel Subcommittee closing arguments may be submitted in writing to the Hearing Panel Subcommittee within 30 days after the final hearing or within 30 days after receipt of the transcript. Written argument may be in the form of proposed findings of fact, conclusions of law and recommendation concerning discipline. (Rule 3.10).

*Respectfully submitted,*  
Office of Disciplinary Counsel  
By Counsel



Amie L. Johnson [Bar No. 6623]

Lawyer Disciplinary Counsel  
Office of Disciplinary Counsel  
900 Lee Street East, Suite 1710  
Charleston, West Virginia 25301  
(304) 558-7999  
Fax (304) 558-4015



**Hearing Panel Subcommittee:**

To be determined.

**Office of Disciplinary Counsel:**

Amie L. Johnson, Disciplinary Counsel, 900 Lee Street East, Suite 1710, Charleston,  
West Virginia 25301

**Respondent:**

Gerald Hough, Esquire  
7 North Court Street  
Glennville, WV 26351

**Respondent's Attorney:**

x

Composition of the Hearing Panel Subcommittee may be subject to change.

D. **Responsive Pleadings.** Pursuant to Rule 2.12 the Respondent must file an answer to the Statement of Charges not more than 30 days after service of the Statement of Charges. The answer shall be verified by Respondent. The failure to file an answer to the formal charges shall be deemed an admission of the factual allegations contained in the Statement of Charges. (Rule 2.13). For good cause shown, the Office of Disciplinary Counsel may extend the time for filing such pleadings.

E. **Discovery.** Effective July 1, 1999, the discovery process for disciplinary cases was changed, as set forth in Rule 3.4 of the Rules of Lawyer Disciplinary Procedure. Within 20 days from the date of service of the Statement of Charges, or at least 60 days prior to the date of the scheduled hearing, whichever is sooner, Disciplinary Counsel shall provide Respondent with the information set forth in Rule 3.4. Within 30 days of Disciplinary Counsel's mandatory discovery, the Respondent shall provide Disciplinary Counsel with the information set forth in Rule 3.4. The Respondent shall be entitled to depose the complainant or complainants, but no other depositions or other method of discovery not set

provided by Rules 2.10 through 2.13 of the Rules of Lawyer Disciplinary Procedure, you have the right to file a verified written response to the foregoing charges within 30 days of service of this Statement of Charges by the Supreme Court of Appeals of West Virginia. Failure to file a response shall be deemed an admission of the factual allegations contained herein.

DATED this 9<sup>th</sup> day of December, 2000.



---

Allan N. Karlin, Chairperson  
Investigative Panel  
Lawyer Disciplinary Board

7. At Glenville State College, a student's academic advisor is permitted to have copies of a student's transcripts.

8. On or about November 13, 1998, Respondent asked the College's registrar for copies of Ms. Wiseman's transcripts.

9. In response to this request, the Respondent was given copies of Ms. Wiseman's transcripts by the registrar's office.

10. When requesting these transcripts, Respondent identified himself to the registrar's office as Ms. Wiseman's advisor.

11. When requesting these transcripts, Respondent held himself out to the registrar's office as being Ms. Wiseman's advisor.

12. When requesting these transcripts, Respondent held himself out to the registrar's office as requesting the records for purposes related to his employment by the College.

13. Respondent was not Ms. Wiseman's advisor.

14. Respondent did not request Ms. Wiseman's records for purposes related to his employment with the College or for the furtherance of Ms. Wiseman's academic career.

15. Respondent's purpose for obtaining Ms. Wiseman's transcripts was for use in representing his criminal defense client in the rape case.

16. Respondent did not have Ms. Wiseman's permission to obtain the transcripts.

STATE OF WEST VIRGINIA

At a Regular Term of the Supreme Court of Appeals continued and held at Charleston, Kanawha County, on the 30<sup>th</sup> of September, 2004, the following order was made and entered:

Lawyer Disciplinary Board, Petitioner

vs.) No. 28794

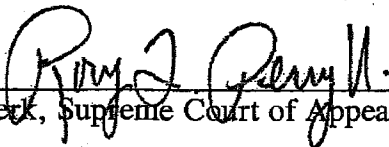
Gerald B. Hough, a member of The West Virginia State Bar, Respondent

On a former day, to-wit, August 4, 2004, came the Hearing Panel Subcommittee of the Lawyer Disciplinary Board, by Timothy L. Sweeney, its chairperson, and presented to the Court its motion in writing to dismiss the above-captioned proceeding for the reasons stated therein, which being seen and inspected by the Court is hereby granted.

It is therefore ordered that the above-captioned proceeding be, and it hereby is, dismissed from the docket of this Court.

A True Copy

Attest:

  
Clerk, Supreme Court of Appeals