

SUPREME COURT OF ARKANSAS

No. CV-23-151

WILLIAM ASA HUTCHINSON III
PETITIONER

V.

ARKANSAS SUPREME COURT
COMMITTEE ON PROFESSIONAL
CONDUCT, PANEL A

RESPONDENT

LISA BALLARD, EXECUTIVE
DIRECTOR, SUPREME COURT
OFFICE OF PROFESSIONAL CONDUCT
RESPONDENT

Opinion Delivered: May 18, 2023

PETITION FOR WRIT OF
CERTIORARI

WRIT GRANTED.

PER CURIAM

Today, we grant the petitioner relief on his writ of certiorari after a de novo review of the Arkansas Supreme Court Committee on Professional Conduct, Panel A's decision to suspend the petitioner's law license on an interim basis. Effective today, we order reinstatement of petitioner's law license. While the Committee has the power to summarily suspend law licenses, it should exercise such power cautiously. Suspension should occur primarily only after notice and a hearing. This procedure will allow more uniformity in application.

Petitioner was arrested late Friday evening on January 13, 2023. On January 17, the following Tuesday, the Office of Professional Conduct petitioned for his suspension. The Committee suspended him on January 20. Following the petitioner's interim suspension, he asked this court for emergency relief. We granted expedited consideration and remanded to the Committee to enter a new order analyzing the *Tapp* factors. *See Tapp v. Ligon*, 2013 Ark. 259, 428 S.W.3d 492. This is consistent with our past treatment of these cases. *See Bloodman v. Ligon*, 2016 Ark. 309. The Committee filed its amended order on March 30.

Upon review, this court may take any action it deems appropriate and grant any relief. Ark. Sup. Ct. P. Regulating Prof'l Conduct § 16(E). The court has all options before it. *Id.* Having undertaken that review, we reinstate petitioner's law license.

Several reasons justify our lifting the interim suspension. We have grave concerns about uniformity of treatment. Compare this case with just one recent example. Another lawyer, Everett Martindale, pleaded guilty to conspiracy to commit mail fraud in the amount of more than \$3.5 million.¹ He admitted using his trust-fund account and making false claims involving clients. He was indicted and charged in 2019. Yet, his license was not suspended until December 1, 2022, months after his guilty plea.

Most importantly, this court prefers that the Committee and the Director provide an attorney with notice and a hearing before issuing any interim suspension. We recognize the current rules permitted the Committee's action here. Ark. Sup. Ct. P. Regulating Prof'l Conduct § 16(A). And *ex parte* interim suspensions may be justified in other cases,

¹The relevant facts are contained in Martindale's petition for voluntary surrender. *See In re Martindale*, No. D-22-611 (Ark. Sept. 30, 2022).

particularly when the conduct arises from an attorney's practice of law. But here, this was a rapid summary suspension for conduct unrelated to petitioner's practice as a lawyer. "A lawyer's right to practice his profession is a valuable privilege, conferred in the first instance by this court and not to be taken from him without notice and a hearing as provided by law." *Ex parte Burton*, 237 Ark. 441, 445, 373 S.W.2d 409, 411 (1963).

In today's world of instant communication and Zoom hearings, minimal notice and an opportunity to be heard imposes no real burdens. And this court and its committees must lead by example by having rules that provide ample procedural due process protections. The dissent cites multiple examples of recent interim suspensions without notice and hearings, which strengthens our resolve and point. This needs to end. This petitioner just happened to bring a writ seeking relief that brought the issue to the Court's full attention.

But to be clear: this court does not condone petitioner's alleged violation of the law; nor do we condone his past behavior that has subjected him to Committee discipline. We focus instead on the lack of uniform treatment and due process. The Committee may proceed, but we lift the interim suspension.

For the above reasons, we grant the writ, lift the suspension, and direct the Committee to revisit our rules and submit proposed revisions to this court that provide more due process protections.

BAKER, HUDSON, and WYNNE, JJ., dissent.