

Judges Back Disbarment For Agnew

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ANNAPOLIS, Jan. 14—A special three-judge panel unanimously recommended today that former Vice President Spiro T. Agnew be barred from the practice of law, saying Agnew's "deceitful and dishonest" conduct makes him "unfit to continue as a member of the bar."

In recommending Agnew's disbarment to the Maryland Court of Appeals—which will make the final decision—the three circuit court judges said, "We see no extenuating circumstances allowing a lesser sanction."

"This is not a case in which a busy lawyer has carelessly or inadvertently failed to obey the law," the judges continued. "The uncontroverted evidence is that the respondent (Agnew) deliberately failed to report on his 1967 federal income tax return nearly \$30,000 of taxable income which he knew the law required him to report and pay taxes on."

The circuit court judges said Agnew "participated in a contrived scheme to cheat the federal government of taxes through the simple expedient of claiming the 'contributions' or 'payments' he received to be nontaxable political contributions, when in reality they were, as he then knew, taxable income."

Disbarment of Agnew would not only prevent him from practicing law in Maryland, but anywhere in the nation because bar associations in other states customarily abide by another state's disbarment of a lawyer.

Agnew's lawyers said today they will file exceptions to the panel's opinion with the Court of Appeals, the state's highest court, which will hear oral arguments and then make a final decision on disciplinary action against the former Vice President. James H. Norris Jr., clerk of the Court of Appeals, said its decision would not be

likely before March.

The move for disciplinary action against Agnew was brought by lawyers for the Maryland State Bar Association whose board of governors and grievance committee voted without dissent in November to urge that Agnew be disbarred, rather than merely be suspended or reprimanded.

Agnew pleaded "no contest" to a tax evasion charge on Oct. 10, moments after resigning as Vice President. The plea came as a result of a federal investigation in Baltimore

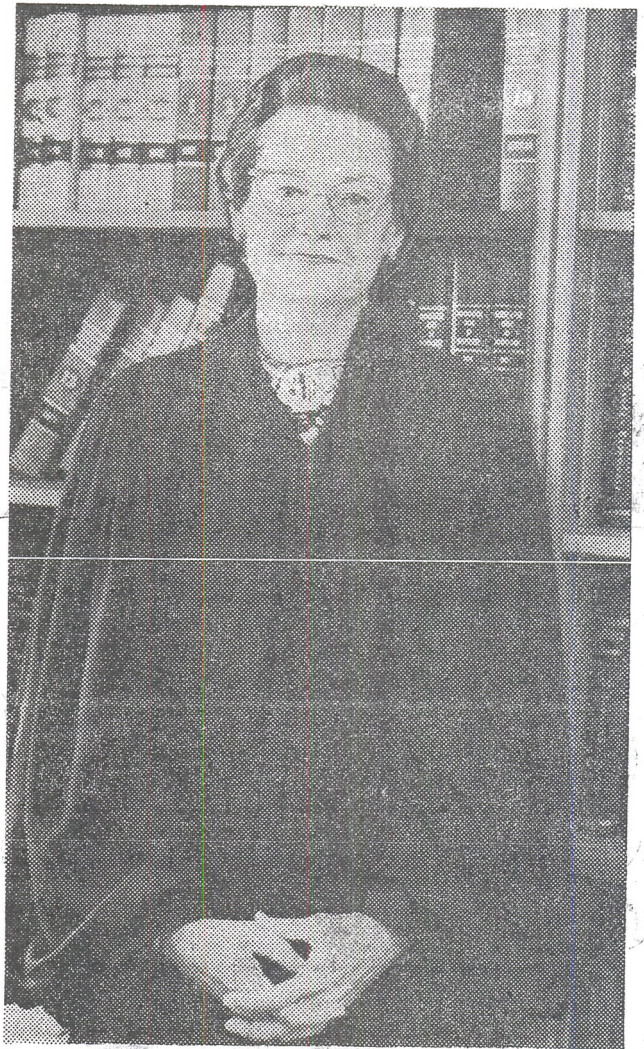
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into allegations that Agnew received kickbacks from contractors while he was county executive of Baltimore County, governor of Maryland and later as Vice President.

Noting that the charge to which Agnew pleaded "is a felony and is one which involves moral turpitude," the three-judge panel said: "There is no dispute over the fact that disciplinary action is called for."

In a Dec. 18 hearing before the panel—consisting of Baltimore Superior Court Judge Shirley B. Jones, Prince George's County Circuit Court Judge William H. McCullough and Anne Arundel County Circuit Court Judge Ridgely P. Melvin—Agnew's lawyers urged that instead of disbarment Agnew be given a mod-



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Judge Shirley B. Jones headed panel on disbarment.

erate suspension that would permit him to practice law afterwards.

The three-judge panel concluded today that Agnew's "conduct, characterized as it must be as deceitful and dishonest, strikes at the heart of the basic object of the legal profession, and constitutes conduct prejudicial to the administration of justice."

The panel continued: "The proper administration of justice, the proper respect of the court for itself and a proper regard for the integrity of the profession compel us to conclude that the respondent is unfit to continue as a member of the bar of this state. We shall therefore recommend his disbarment."

Agnew, looking thinner and paler than he did as Vice President, had spoken on his own behalf at the Dec. 18 hearing,

urging the panel "not to strip me of my means of livelihood."

Leon H.A. Pierson, one of Agnew's two lawyers, said today that Agnew had no comment other than to authorize his lawyers to file exceptions to the panel's recommendation with the Court of Appeals. Such a move will assure that the state's highest court will hear arguments from both sides before making a final ruling.

If Agnew's lawyers do not file an exception to the panel's opinion, the Court of Appeals could rule without holding an appellate hearing. Agnew's lawyers have 30 days to file an exception and the bar associa-

tion's lawyers then will have 20 days to respond.

Two of the seven Court of Appeals judges, Marvin H. Smith and Frederick J. Singley Jr., have said they will not sit with the court when it considers Agnew's disbarment because they were appointed to the court by Agnew when he was governor. The other five judges were appointed by other governors.

The Court of Appeals in the past has followed lower court recommendations on disciplinary action in a majority of cases, but not all, Norris, the court clerk, said.

The three-judge panel, appointed by the Court of Appeals, filed its 14-page opinion about 9 a.m. today in Anne Arundel County Circuit Court, where the panel held its Dec. 18 hearing.

The panel said that a review of cases in Maryland and elsewhere in which disciplinary action was considered against lawyers "establishes that it is difficult if not impossible to discern a neat or uniform pattern as to the disciplinary action imposed for various infractions by attorneys."

In Maryland, the panel said, sanctions in cases involving violation of federal income tax laws have ranged from disbarment to suspension to reprimands.

"Since 1970 when the Court of Appeals assumed the duty of imposing disciplinary sanctions there have been several suspensions of attorneys based on failure to file income tax returns," the panel said. Agnew, however, pleaded "no contest" to tax evasion, a more

serious crime than failing to file a tax return.

The three-judge panel said it knew of no Maryland case since November, 1970, when the procedure in the state for disciplining lawyers was reorganized, arising out of the same tax evasion violation to which Agnew pleaded.

Since November, 1970, seven Maryland lawyers have been disbarred and 10 others have resigned from the bar with prejudice, a procedure that also prohibits them from practicing law. None of the seven disbarred had been convicted of tax evasion.

There are 7,700 lawyers residing in Maryland, and 5,500 members of the State Bar Association who are entitled to practice law in the state, according to a bar official.

The three-judge panel said:

"Regardless of this lack of a clear pattern insofar as sanctions for the errant lawyer are concerned, there is no difficulty in discerning precedents for and stability of the basic tenets of conduct and behavior expected of lawyers."

The panel noted that in 1969 the American Bar Association adopted a new "code of professional responsibility." The code subsequently was established as Maryland court rules, which prohibit lawyers from conduct "involving dishonesty, fraud, deceit or misrepresentation" or any other conduct involving moral turpitude.

At the Dec. 18 hearing, Agnew's lawyers, E. Dale Adkins and Pierson, argued that the tax evasion charge to which Agnew pleaded did not involve his function as a lawyer and did not mean he could not represent future clients with integrity.

The panel said, "One of the leading cases in Maryland pertaining to violation of the federal income tax laws is *Rheb vs. Bar Association* . . . wherein one of the defenses raised against disbarment was that the attorney's conduct involved private, personal misconduct and not misconduct as an attorney," as Agnew's lawyers also argued.

The panel continued "The Court of Appeals dismissed this argument (in the *Rheb* case), holding that such conduct nonetheless constituted a

crime involving moral turpitude and conduct prejudicial to the administration of justice."

The judges cited a 1957 case in which a Baltimore lawyer was disbarred for inserting slugs instead of real coins in a parking meter as an example of how seriously the Maryland courts regard any kind of fraudulent activity by lawyers.

The panel said in its opinion that Agnew's plea of "no contest" to tax evasion "was an admission by him that the Department of Justice is possessed of sufficient evidence to prove its case beyond a reasonable doubt."

The judges said that Agnew's 1967 tax return "was false and fraudulent and, had its falsity gone undetected, would have resulted in his cheating the government, whose constitution and laws by his attorney's oath he had sworn to uphold, of nearly \$13,000."

At the Dec. 18 hearing, Ad-

kins had argued: "We ask no special consideration for Mr. Agnew because of his former high position. He obviously is entitled to none. But just as his former high position should give him no benefit, it should impose no burden."

The panel in its ruling today, said: "We believe that any lawyer, whether in public office or not, owes a general duty to the public at large, as well as to other members of the bar, to adhere unflinchingly to the high ethical standards peculiar to his chosen profession. To fail to do so in any arena demonstrates an unworthiness to continue the practice of law."

In pleading no contest in October to the tax evasion charge, Agnew told U.S. District Court Judge Walter E. Hoffman in Baltimore's U.S. District Court:

"I deny that the payments in any way influenced my official actions . . . My acceptance of contributions was part of a long-established pattern of political fund-raising in the state. At no time have I enriched myself at the expense of my public trust."

The three judges said in their opinion today that, in reaching their decision, they did not consider the 40-page compilation of evidence against Agnew that alleged bribery, extortion, conspiracy

and tax evasion, in addition to the one tax count to which Agnew pleaded.

The 40-page Justice Department statement of evidence against Agnew had been submitted by Alfred L. Scanlan and Daniel W. Moylan lawyers for the state bar. The panel said that because Agnew was only convicted of the one tax evasion charge, that was all it considered in recommending Agnew's disbarment.