STATE OF NORTH CAROLINA WAKE COUNTY	BEFORE THE DISCIPLINARY HEARING COMMISSION OF THE NORTH CAROLINA STATE BAR 16 DHC 36
THE NORTH CAROLINA STATE BAR, Plaintiff, v. GREGORY L. PERRY, Attorney, Defendant	COMPLAINT

OCT 2016 FILED DHC

Plaintiff, complaining of Defendant, alleges and says:

1. Plaintiff, the North Carolina State Bar, is a body duly organized under the laws of North Carolina and is the proper party to bring this proceeding under the authority granted it in Chapter 84 of the General Statutes of North Carolina, and the Rules and Regulations of the North Carolina State Bar promulgated thereunder.

2. Defendant, Gregory L. Perry, was admitted to the North Carolina State Bar in 2007, and is an Attorney at Law subject to the rules, regulations, and Rules of Professional Conduct of the North Carolina State Bar and the laws of the State of North Carolina.

3. During the relevant period referred to herein, Perry was actively engaged in the practice of law in Roanoke Rapids and/or Enfield, Halifax County, North Carolina.

FIRST CLAIM FOR RELIEF

4. Paragraphs 1 through 3 are re-alleged and incorporated herein.

5. On 9 December 2013, two of Perry's clients were on the criminal calendar in Halifax County Superior Court.

6. Perry did not appear in Halifax County Superior Court on 9 December 2013, nor did he notify the court of his whereabouts.

7. Perry's failure to appear interfered with and impeded the court's ability to address cases on its docket.

8. Perry was convicted of two counts of criminal contempt of court for failing to appear for his clients without justification.

THEREFORE, Plaintiff alleges that Defendant's foregoing actions constitute grounds for discipline pursuant to N.C. Gen. Stat. §§ 84-28(b) (1) and (2) in that Defendant violated § 84-28(b)(1) and the Rules of Professional Conduct in effect at the time of the conduct as follows:

(a) By failing to appear in court on behalf of his clients, thereby interfering with the business of the Court, Defendant knowingly violated an obligation under the rules of the tribunal in violation of Rule 3.4(c), failed to act with reasonable diligence on behalf of his clients in violation of Rule 1.3, and engaged in conduct prejudicial to the administration of justice in violation of Rule 8.4(d); and

(b) By engaging in criminal contempt of court, Defendant committed a criminal act reflecting adversely on his trustworthiness or fitness as a lawyer in violation of Rule 8.4(b) and was convicted of a criminal offense showing professional unfitness.

SECOND CLAIM FOR RELIEF

9. Paragraphs 1 through 8 are re-alleged and incorporated herein.

10. Beginning in 2013, Perry represented Marquis Whitmore, who had a long history of drug-related charges and convictions, on charges of possession of cocaine.

11. In the fall of 2014, Whitmore's cell phone was seized and examined by law enforcement in connection with another drug-related investigation. Whitmore's phone contained numerous text messages exchanged with Perry.

12. In text messages sent during September, October, and November 2014, Perry made inquiries about purchasing heroin, marijuana, and "pills" from Whitmore.

13. In these text messages, Perry solicited Whitmore to engage in the criminal acts of possessing, delivering, and/or selling controlled substances.

14. At the time Perry sent the text messages referenced in paragraphs 11 through 13, Perry represented Whitmore on drug-related charges.

15. Perry continued representing Whitmore despite the conflict of interest created by the fact that he was simultaneously soliciting Whitmore to engage in criminal acts.

16. In February 2015, the Grievance Committee issued a subpoena requiring Perry to appear at the State Bar and be interviewed regarding the Whitmore matter. During that interview, Perry made false statements to a State Bar investigator and staff counsel, including:

(a) That he did not have a personal relationship with Whitmore.

(b) That he never tried to obtain controlled substances from Whitmore.

(c) That Perry's fiancée Stephanie Brooke Barber did not have a cell phone during the period of time in which the relevant texts with Whitmore were exchanged.

(d) That Barber regularly used Perry's cell phone and was the one who sent the text messages to Whitmore about acquiring drugs.

THEREFORE, Plaintiff alleges that Defendant's foregoing actions constitute grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(b)(2) in that Defendant violated the Rules of Professional Conduct in effect at the time of his actions as follows:

(a) By asking Whitmore to sell and/or deliver drugs, thereby exposing his client to additional criminal charges, Respondent attempted to intentionally damage his client during the course of the professional relationship, in violation of Rule 8.4(a);

(b) By asking Whitmore to sell and/or deliver drugs, thereby soliciting his client to commit a felony, Defendant engaged in a criminal act reflecting adversely on his fitness as a lawyer in violation of Rule 8.4(b), and attempted to assist a client in activity that he knew was criminal in violation of Rule 8.4(a);

(c) By asking Whitmore to sell and/or deliver drugs, thus making himself a potential witness against Whitmore in pending and future drug charges, Defendant engaged in a conflict of interest in violation of Rule 1.7(a)(2);

(d) By continuing to represent Whitmore after an irresolvable conflict of interest arose, Defendant failed to withdraw from representation of a client when withdrawal was required by Rule 1.16(a); and

(e) By attempting to deceive the State Bar during the grievance investigation, Defendant knowingly made false statements of fact in connection with a disciplinary matter in violation of Rule 8.1(a) and engaged in conduct involving dishonesty, deceit, or misrepresentation in violation of Rule 8.4(c).

THIRD CLAIM FOR RELIEF

17. Paragraphs 1 through 16 are re-alleged and incorporated herein.

18. On 1 May 2015, Stephanie Brooke Barber was confined to the Halifax County Jail after being charged with larceny and breaking and entering.

19. Barber was represented by appointed counsel on the May 2015 charges.

20. From May 2-4, 2015 Perry visited Barber in the jail on four separate occasions. Perry also attempted to visit Barber at 3:30 am on May 2, but was denied access to the jail because the inmates were sleeping.

21. Each time Perry appeared at the jail, he represented to jail officials that he was Barber's attorney in order to gain access to Barber.

22. Perry was not Barber's attorney: He was her ex-fiancé.

23. Perry's attempt to access the jail at 3:30 am was so out of the ordinary that jail personnel generated an official Incident Report memorializing the event.

24. When the Halifax County Sheriff learned about the attempted 3:30 am visit, and discovered that Perry had falsely stated he was Barber's lawyer, he reported the matter to the State Bar.

25. In response to the State Bar's grievance inquiry about the events described in paragraphs 20 through 22, Perry falsely maintained that he had represented Barber on the May 2015 charges.

26. Specifically, Perry asserted that he had persuaded the ADA to dismiss Barber's May 2015 charges by presenting him with a statement from the victim indicating she did not object to dismissal. This statement was false: The ADA dealt exclusively with Barber's appointed counsel and did not have any communications with Perry regarding dismissal of the May 2015 charges.

THEREFORE, Plaintiff alleges that Defendant's foregoing actions constitute grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(b)(2) in that Defendant violated the Rules of Professional Conduct in effect at the time of his actions as follows:

(a) By falsely stating that he was Barber's lawyer in order to gain access to her at the jail, Defendant engaged in conduct involving dishonesty, deceit, or misrepresentation in violation of Rule 8.4(c);

(b) By unnecessarily interrupting jail officials in their duties (causing them to generate an Incident Report) and misleading them, Defendant engaged in conduct prejudicial to the administration of justice in violation of Rule 8.4(d); and

(c) By falsely stating in his response to the grievance that he represented Barber and had negotiated with the ADA on Barber's behalf to have the charges dismissed, Defendant knowingly made false statements of fact in connection with a disciplinary matter in violation of Rule 8.1(a) and engaged in conduct involving dishonesty, deceit, or misrepresentation in violation of Rule 8.4(c).

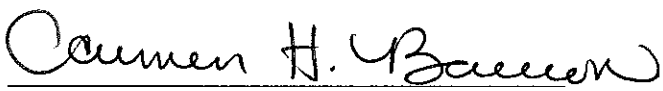
WHEREFORE, Plaintiff prays that

1. Disciplinary action be taken against Defendant in accordance with N.C.G.S. § 84-28 and 27 N.C. Admin. Code Chapter 1B, as the evidence on hearing may warrant;

2. Defendant be taxed with the administrative fees and with actual costs permitted by law in connection with the proceeding; and

3. For such other relief as the Hearing Panel deems appropriate.

The 24th day of October, 2016.



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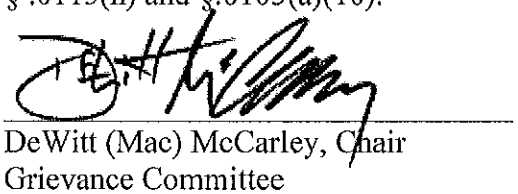
Signed pursuant to 27 N.C. Admin. Code 1B
§ .0113(n) and §.0105(a)(10).



DeWitt (Mac) McCarley, Chair
Grievance Committee