

NORTH CAROLINA
WAKE COUNTY



BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
09 DHC 27

THE NORTH CAROLINA STATE BAR,)
Plaintiff,)
v.)
RONALD L. PRESSLEY,)
Defendant.)

**FINDINGS OF FACT,
CONCLUSION OF LAW AND ORDER
OF DISCIPLINE BY CONSENT**

This matter was considered by a hearing panel of the Disciplinary Hearing Commission duly appointed and composed of the Chair, Sharon B. Alexander, and panel members Donna Rascoe and Charles L. Garrett. Katherine E. Jean represented Plaintiff. Defendant appeared pro se. Both stipulate and agree to the findings of fact and conclusions of law recited in this consent order and to the discipline imposed. Defendant knowingly, freely and voluntarily consents to the order of discipline, waives a formal hearing in this case, waives his right to appeal this consent order or challenge in any way the sufficiency of the findings, the conclusions of law or the discipline imposed. Based upon the stipulations of fact and the consent of the parties, the hearing panel enters the following:

FINDINGS OF FACT

1. Plaintiff, the North Carolina State Bar ("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 (Chapter 1 of Title 27 of the North Carolina Administrative Code).
2. Defendant, Ronald L. Pressley ("Pressley" or "Defendant"), was admitted to the North Carolina State Bar in 1996, and is, and was at all times referred to herein, an attorney at law licensed to practice in North Carolina, subject to the laws of the State of North Carolina, the Rules and Regulations of the North Carolina State Bar and the Rules of Professional Conduct.
3. During part of the relevant periods referred to herein, Pressley was engaged in the practice of law in the State of North Carolina and maintained a law office in Raleigh, Wake County, North Carolina.

4. During part of the relevant periods referred to herein, Pressley was administratively suspended from the practice of law in the State of North Carolina pursuant to N.C. Gen. Stat. § 84-16 and 27 N.C.A.C. 1D § .0903 for failing to comply with Continuing Legal Education requirements for the year 2005.
5. In 2004, Pressley agreed to represent Dr. Ray Legen and Mrs. Susan Legen ("the Legens") in two personal injury cases related to two separate automobile accidents which occurred in April 2004.
6. Pressley filed a complaint on behalf of Dr. Legen on March 22, 2007, but failed to provide a copy of the complaint to Dr. Legen or otherwise notify Dr. Legen that the complaint had been filed. Pressley also filed a complaint on behalf of Mrs. Legen on March 22, 2007 but failed to provide a copy of the complaint to Mrs. Legen or otherwise inform Mrs. Legen that the complaint had been filed.
7. On March 22, 2007, when he filed the complaints on behalf of the Legens, Pressley's law license was administratively suspended.
8. Throughout the representation, Pressley failed to return phone calls and email messages from the Legens inquiring about the status of their cases. Because Pressley did not respond to their inquiries, the Legens did not know whether he had filed the complaints and were concerned about the possibility that their claims would be barred by the statute of limitations.
9. After he filed Dr. Legen's complaint on March 22, 2007, Pressley served the complaint and summons on one of the two named defendants. The summons for the second defendant was not served, and was returned to Pressley marked "address unknown."
10. From May 2007 through May 2008, Pressley had six alias and pluries ("A & P") summonses issued in Dr. Legen's case. Each of the A & P summonses listed the same incorrect address for the second defendant, who was never served with the complaint.
11. Aside from issuing these A & P summonses bearing an incorrect address, Pressley failed to take any further action in Dr. Legen's case.
12. In 2008, Pressley agreed to settle Mrs. Legen's case for \$2,000.00. He did not consult with, or obtain authorization from, Mrs. Legen prior to accepting this settlement.
13. Pursuant to the settlement agreement, on May 29, 2008, State Farm Insurance issued a check for \$2,000.00, payable to Mrs. Legen and Pressley's law firm.
14. Pressley received the \$2,000.00 settlement check from State Farm, but did not notify Mrs. Legen that he had received settlement funds on her behalf.
15. Pressley did not deposit the check from State Farm into his firm's trust account or any other bank account, nor did he deliver the settlement proceeds to Mrs. Legen. The check from State Farm remained, un-negotiated, in Mrs. Legen's client file.

16. Pressley did not file a voluntary dismissal of Mrs. Legen's case, as required by the settlement agreement with State Farm.
17. In June 2008, Pressley left his law firm, taking all of his clients' files with him. He did not notify all of his clients of his separation from the firm.
18. Pressley did not notify his clients that—upon his separation from the firm—they could continue to be represented by Pressley, continue to be represented by the firm, or hire another lawyer.
19. In July 2008, the Legens called Pressley's former law firm and were told that Pressley no longer worked there. The firm provided the Legens with a phone number for Pressley, which they called repeatedly, seeking information about the status of their cases. Pressley failed to return the Legens' phone calls.
20. Pressley's former law partner informed the Legens that they could choose to remain as clients of the firm, in which case another attorney would assume responsibility for their representation.
21. The Legens decided that they did not want Pressley to continue to represent them, and that they wanted Pressley's former firm to represent them instead.
22. On September 18, 2008, Pressley's former partner sent Pressley an email informing him of the Legens' request for the firm to take over their cases. In that email, she directed Pressley to return the Legens' files to her.
23. On September 23, 2008, Dr. Legen sent Pressley an email instructing Pressley to provide the Legens' files to Pressley's former partner.
24. Issues related to Pressley's departure from his former law firm were arbitrated in the fall of 2008. Among other things, the arbitration order required Pressley to return client files to the firm.
25. Despite specific requests from the Legens and his former partner, and an arbitration order directing him to return client files to the firm, Pressley failed to return the Legens' files to his former firm.
26. On December 9, 2008, the Legens filed a grievance against Pressley with the State Bar. This grievance was assigned file number 08G1502.
27. On or about January 6, 2009, the State Bar issued a letter of notice to Pressley advising him that a grievance had been filed against him. Pressley received the letter of notice regarding file number 08G1502 by certified mail on January 13, 2009.
28. Pressley was required to respond within fifteen days of receipt of the letter of notice. He failed to respond within that time period.

29. On or about February 24, 2009, the State Bar sent Pressley a follow-up letter that noted his failure to respond to the letter of notice and reminded him of his obligation to respond.

30. On or about March 6, 2009, the State Bar sent Pressley another follow-up letter that noted his failure to respond to the letter of notice. Pressley was required to respond to the follow-up letter by March 16, 2009. Pressley failed to respond by that deadline.

31. The State Bar received Pressley's response to the letter of notice on March 18, 2009. The response was incomplete.

32. On or about March 24, 2009, the State Bar sent Pressley a letter advising Pressley that his response failed to address several of the allegations set forth in the letter of notice. Pressley was required to provide the additional information requested in this letter by April 14, 2009. Pressley failed to respond by that deadline.

33. On May 18, 2009, the State Bar issued a subpoena commanding Pressley to appear at the State Bar office for an interview. Pressley was personally served with the subpoena on May 19, 2009.

34. On June 1, 2009, Pressley appeared at the State Bar office pursuant to the subpoena to discuss grievance file number 08G1502. He did not, however, provide a written response to the State Bar's March 24, 2009 letter.

Based upon the foregoing Findings of Fact, the hearing panel hereby enters the following:

CONCLUSIONS OF LAW

1. All parties are properly before the hearing panel and the panel has jurisdiction over Defendant and the subject matter of this proceeding. By agreeing and consenting to this order of discipline, Defendant has waived any and all defects in the service of the Summons and Complaint and in the Notice of Hearing.

2. Defendant's conduct, as set out in the Findings of Fact above, constitutes grounds for discipline pursuant to N.C. General Statute §84-28(b)(2) in that the conduct violated the Rules of Professional Conduct in effect at the time of the conduct as follows:

- (a) By failing to inform the Legens that he had filed complaints on their behalf and by failing to respond to the Legens' inquiries about their cases, Pressley failed to keep his clients reasonably informed about the status of their legal matters in violation of Rule 1.4(a)(3) and failed to promptly comply with reasonable requests for information in violation of Rule 1.4(a)(4);

- (b) By filing complaints on behalf of the Legens when his law license was suspended, Pressley engaged in the unauthorized practice of law in violation of Rule 5.5(a);
- (c) By agreeing to settle Mrs. Legen's case without informing Mrs. Legen of the settlement offer and obtaining her authorization, Pressley failed to promptly inform his client of a decision with respect to which her informed consent was required in violation of Rule 1.4(a)(1), failed to reasonably consult with his client about the means by which her objectives were to be accomplished in violation of Rule 1.4(a)(2), and failed to explain a matter to the extent reasonably necessary to permit his client to make an informed decision regarding the representation in violation of Rule 1.4(b);
- (d) By failing to notify Mrs. Legen that he had received \$2,000.00 in settlement of her personal injury claim, Pressley failed to keep his client reasonably informed about the status of her legal matter in violation of Rule 1.4(a)(3);
- (e) By failing to notify his clients, including the Legens, of his departure from the law firm and their right to choice of counsel, Pressley failed to promptly inform clients of a decision or circumstance with respect to which the clients' informed consent was required in violation of Rule 1.4(a)(1);
- (f) By failing to return the Legens' client files to his former firm upon request, Pressley failed to take reasonable steps to protect his clients' interests upon termination of the representation in violation of Rule 1.16(d); and
- (g) By failing to timely respond to the State Bar's January 6, 2009 letter of notice and March 24, 2009 letter requesting a complete response to the allegations of the grievance, Pressley failed to respond as required to lawful inquiries of a disciplinary authority in violation of Rule 8.1(b) and N.C. Gen. Stat § 84-28(b)(3).

Based upon the foregoing Findings of Fact and Conclusions of Law, the hearing panel enters the following:

FINDINGS OF FACT AND CONCLUSIONS REGARDING DISCIPLINE

1. The hearing panel has carefully considered all of the different forms of discipline available to it.
2. The hearing panel has considered all of the factors enumerated in 27 N.C.A.C. 1B §.0114(w)(3) of the Rules and Regulations of the North Carolina State Bar and finds the following factors are applicable in this matter:

- (a) The lack of prior disciplinary offenses by Defendant;
- (b) The absence of a dishonest or selfish motive by Defendant;
- (c) The effect of Defendant's personal and emotional problems on the conduct in question;
- (d) Defendant's interim rehabilitation through voluntary participation in the LAP program the North Carolina State Bar; and
- (e) Defendant's substantial experience in the practice of law.

3. The hearing panel has also considered all of the factors enumerated in 27 N.C.A.C. 1B §.0114(w)(1) of the Rules and Regulations of the North Carolina State Bar and finds the following factors warrant suspension of Defendant's license:

- (a) The negative impact of Defendant's actions on the client's and the public's perception of the profession;
- (b) The negative impact of Defendant's actions on the administration of justice;
- (c) Impairment of the client's ability to achieve the goals of the representation; and
- (d) Multiple instances of failure to participate in the legal profession's self-regulation process.

4. Any sanction less than suspension would fail to acknowledge the seriousness of the offenses committed by Defendant, would not adequately protect the public, and would send the wrong message to attorneys and the public regarding the conduct expected of members of the Bar.

5. The hearing panel considered the factors delineated in 27 N.C.A.C. 1B §.0114(w)(2)(A) of the Rules and Regulations of the North Carolina State Bar and finds the circumstances of this case do not warrant disbarment in order to protect the public.

6. The hearing panel has carefully considered all disciplinary options and finds reprimand, admonition or censure would not be sufficient discipline to protect the public, clients or potential clients, and the profession. The hearing panel finds that any discipline less than suspension stayed upon conditions would not be appropriate in this case.

7. The hearing panel finds and concludes that the public will be adequately protected by suspension of Defendant's license, stayed for a period of time with conditions imposed upon Defendant designed to ensure protection of the public and Defendant's continued compliance with the Rules of Professional Conduct.

Based upon the foregoing Findings of Fact, Conclusions of Law, and Findings Regarding Discipline, the hearing panel enters the following:

ORDER OF DISCIPLINE

1. Defendant's license to practice law in the State of North Carolina is hereby suspended for three (3) years. This suspension is stayed for a period of three (3) years upon the following terms and conditions:

- (a) Beginning immediately upon service of this Order of Discipline and at his sole expense, Defendant will undergo treatment by a qualified psychiatrist or other mental health professional acceptable to the Office of Counsel of the North Carolina State Bar for depression and any other mental health problems that may be diagnosed by such medical care providers during the period of treatment. Defendant will submit the name and credentials of his proposed treatment professional and an alternate to the Office of Counsel within fifteen (15) days after the effective date of this order. If either proposed treatment professional is unacceptable to the Office of Counsel, Defendant will provide the name and another proposed treatment professional within twenty (20) days of notice from the Office of Counsel. Defendant will have his initial mental health evaluation completed within thirty (30) days after the effective date of this order or ten (10) days after acceptance of his proposed treatment professional by the Office of Counsel, whichever is later. Defendant will instruct his mental health professional, in writing, to provide a copy of his written evaluation to the Office of Counsel within 15 days of completion of the evaluation. Failure to fulfill all of the requirements set forth in this subparagraph within the deadlines set forth herein will constitute grounds to lift the stay and activate the suspension of Defendant's license;
- (b) Defendant, at his expense, will direct his psychiatrist or mental health professional to directly provide quarterly written reports to the Office of Counsel describing in detail Defendant's current treatment regimen, compliance, and prognosis or treatment plan for the next quarter, within fifteen (15) days of the end of each calendar quarter (i.e., by January 15, April 15, July 15, and October 15). Defendant will execute written waivers and releases authorizing the Office of Counsel to confer with Defendant's psychiatrist or other medical care providers for the purpose of determining if Defendant has cooperated and complied with all requirements of the prescribed treatment program. Defendant will not revoke the waivers and releases at any time during the period the suspension is stayed. All

expenses of his treatment and of providing reports to the Office of Counsel will be born solely by Defendant. Defendant will continue with the treatment program for a period of three years or until released by his treating mental health professional, whichever is later;

- (c) Within one (1) year of entry of this Order, Defendant will complete a continuing legal education course having as its primary emphasis professionalism within the practice of law;
- (d) Within two (2) months of the effective date of this order, Defendant will contract with a licensed North Carolina attorney to serve as his practice monitor. The practice monitor must be a lawyer who maintains a private law practice in the judicial district in which Defendant maintains the primary office for his practice. Defendant will first secure approval from the Office of Counsel of the North Carolina State Bar for his proposed practice monitor. Such approval will not be unreasonably withheld. Defendant will meet in person with his practice monitor at least once a month throughout any period during which the suspension of his law license is stayed. Defendant will keep the monitor apprised of all open and pending client matters and the status of all such matters. Within fifteen (15) days after the end of each calendar quarter (i.e., by January 15, April 15, July 15, and October 15) of each period during which the suspension of his law license is stayed, Defendant will deliver to the Office of the Counsel written reports signed by the practice monitor confirming that the meetings are occurring and reporting any problems or potential problems with any of Defendant's client matters. It is Defendant's responsibility to ensure that the practice monitor prepares and provides to the Office of Counsel such quarterly reports. Defendant will be solely responsible for all costs associated with the monitoring of his law practice;
- (e) Defendant will not violate the Rules of Professional Conduct or the laws of the United States, this state or any state during this suspension;
- (f) Defendant will keep the North Carolina State Bar Membership Department advised of his current business and home address in writing within ten (10) days of any change;
- (g) Defendant will respond to every communication from the North Carolina State Bar by the deadline stated in the communication;
- (h) Defendant will pay all Membership dues, fees and costs, including all Client Security Fund assessments and other charges or surcharges the State Bar is authorized to collect from him, and will comply with all Continuing Legal Education (CLE) requirements on a timely basis during any period during which the suspension of his law license is stayed; and

- (i) Defendant will pay the costs of this proceeding within thirty (30) days of service upon him of the statement of costs from the Office of Secretary.

2. At the end of the three (3) year period of stayed suspension, it shall be Defendant's burden to demonstrate that he has complied with all conditions set forth in paragraphs 1(a) through 1(i) above before the stayed suspension is dissolved.

3. If during the stay of the three (3) year suspension Defendant fails to comply with any one or more of the conditions stated in paragraph 1(a) through 1(i) above, the stay of the suspension of his law license may be lifted as provided in 27 N.C.A.C. 1B § .0114(x) of the Rules and Regulations of the North Carolina State Bar and the suspension activated.

4. If the stay of the suspension is lifted and the suspension is activated for any reason, before Defendant may seek a subsequent stay of the suspension, he must demonstrate by clear cogent and convincing evidence that, at the time of his application for a stay of the suspension, he is currently in compliance with each of the following conditions:

- a. That no later than thirty (30) days from the effective date of the order lifting the stay and activating the suspension, he submitted his license and membership card to the Secretary of the North Carolina State Bar;
- b. That he is in compliance with all provisions of 27 N.C.A.C. Chapter 1, Subchapter B, § .0124 of the Rules and Regulations of the North Carolina State Bar;
- c. That he is in compliance with all of the conditions 1(a) through 1(i) above; and
- d. That he is not then suffering from any disability that would or could impair his ability to practice law.

5. The Disciplinary Hearing Commission will retain jurisdiction of this matter pursuant to 27 N.C.A.C. Chapter 1, Subchapter B, § .0114(x) of the Rules and Regulations of the North Carolina State Bar throughout the period of the stayed suspension.

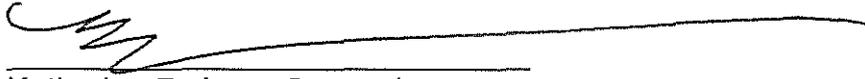
Signed by the undersigned Chair with full knowledge and consent of the other members of the hearing panel.

This is the 19 day of May, 2010.

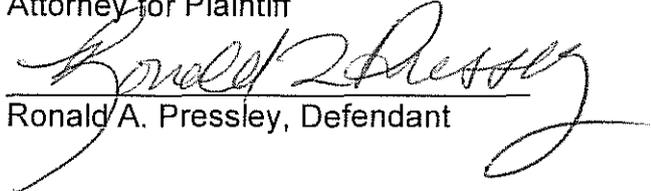


Sharon B. Alexander, Chair
Disciplinary Hearing Panel

Consented To:



Katherine E. Jean, Counsel
Attorney for Plaintiff



Ronald A. Pressley, Defendant