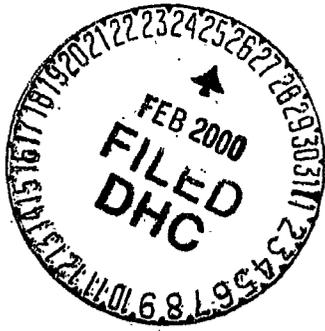


WAKE COUNTY  
NORTH CAROLINA



14081  
BEFORE THE  
DISCIPLINARY HEARING COMMISSION  
OF THE  
NORTH CAROLINA STATE BAR  
99 DHC 29

THE NORTH CAROLINA STATE BAR,  
Plaintiff

vs.

GREGORY S. CURKA, Attorney,  
Defendant

FINDINGS OF FACT, CONCLUSIONS OF  
LAW, AND CONSENT ORDER OF  
DISABILITY

This matter was heard by the consent of the parties before a duly appointed hearing committee of the Disciplinary Hearing Commission. The Plaintiff was represented by Clayton W. Davidson, III. The Defendant, Gregory S. Curka, appeared *pro se*. Both parties stipulate and agree to the findings of fact and conclusions of law recited in this consent order and the order entered herein. The Defendant waives his right to have probable cause determined by the grievance committee pursuant to 27 N.C. Admin Code Chapter 1, Subchapter B §.0113(a), and waives his right to hearing before the Disciplinary Hearing Commission, and waives process and service of process. Based upon the agreement of the parties, the hearing committee hereby enters the following:

#### FINDINGS OF FACT

1. The Plaintiff, the North Carolina State Bar (the "State Bar") is a body duly organized under the laws of the State of North Carolina and is the proper body to bring this proceeding under the authority granted to it in Chapter 84 of the General Statutes of North Carolina and the rules and regulations of the State Bar promulgated pursuant thereto (the "State Bar Rules and Regulations").
2. The Defendant, Gregory S. Curka, (the "Defendant") was admitted to the State Bar in or about 1987 and is, and was at all times referred to herein, an attorney at law licensed to practice in North Carolina subject to the State Bar Rules and Regulations and the Rules of Professional Conduct of North Carolina.
3. On or about May 18, 1999, a panel of the Disciplinary Hearing Commission entered an order finding the Defendant had violated various Rules of Professional Conduct and suspending the Defendant from the practice of law for a period of three years, which suspension was stayed on certain conditions, 99 DHC 1 (the "Suspension Order").
4. One of the conditions of the Suspension Order was that the Defendant become a patient of a psychiatrist approved by the North Carolina State Bar (the "Psychiatrist") and that the Defendant comply with all recommendations for treatment by the Psychiatrist.

5. Since the date of the Suspension Order, the Defendant has undergone treatment for chemical dependency and substance abuse, and emotional problems deriving from, interrelated with or leading to the chemical dependency and substance abuse, and has become a patient of Dr. Scott Lurie (Psychiatrist) and Tammy Bell an addictions counselor and has been assisted by the PALS program.

6. In consultation with his Psychiatrist, the addictions counselor, and the PALS Program the Defendant has determined that his chemical dependency and substance abuse and the emotional problems that he is suffering constitute a mental or physical condition which at the present time significantly impairs the professional judgment, performance or competence of the Defendant as an attorney, and that he is consequently currently disabled and unable to practice law.

7. The Defendant desires to be transferred to disability inactive status until such time as he is able to demonstrate that he is competent to resume the practice of law, and the Plaintiff has consented to the Defendant's transfer to disability inactive status.

Based on the foregoing findings of fact, the hearing committee enters the following:

#### CONCLUSIONS OF LAW

1. Pursuant to 27 N.C. Admin Code Chapter 1, Subchapter B § .0103, the Defendant is presently disabled and is not competent to practice law in North Carolina.

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

#### ORDER OF DISCIPLINE

1. The Defendant is hereby transferred to disability inactive status on the ground of disability for an indefinite period and until further order of the Disciplinary Hearing Commission.

2. The provisions of 27 N.C. Admin Code Chapter 1, Subchapter B § .0125(c) shall apply to any petition for reinstatement from disability inactive status, provided however, that the Defendant may first petition for reinstatement six months following the date of this order. In addition to the foregoing provisions, as a condition of reinstatement, the Defendant shall prove by clear, cogent, and convincing evidence the following:

- a) For a period of six months immediately preceding the petition for reinstatement, the Defendant has totally abstained from the consumption and the use of any alcoholic beverage, illegal drug, or any chemical or substance to which he has been medically determined to be addicted or dependent, or any other substance which is capable of causing addiction or dependency, except to the extent that

such a substance is prescribed by a physician who has full knowledge of the Defendant's medical history and history of substance abuse.

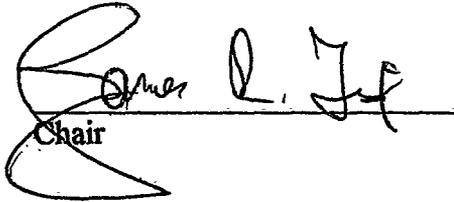
- b) The Defendant shall fully cooperate with and shall participate in the PALS Program. Such participation shall include, but not be limited to: attendance at 180 AA meetings in the next 180 days from the date of this order and such meetings thereafter as his PALS monitor may deem appropriate; obtain an AA sponsor and work the 12-steps of AA with his sponsor; attendance at regular individual and/or group sessions with Tammy Bell, his addictions counselor, on such basis as she may prescribe; regular contact with the Defendant's appointed PALS monitor on such basis as his monitor may prescribe; and random drug screening by PALS on such basis as it believes appropriate. Any refusal to take a test or any positive test must be reported to the State Bar, and shall be grounds for denial of the petition for reinstatement. The Defendant shall submit a statement signed by the PALS monitor that the Defendant has complied with the terms of this subparagraph. By his consent to this order, the Defendant waives any confidentiality associated with his participation in the PALS program.
- c) The Defendant, at the Defendant's expense, shall remain a patient of a psychiatrist (the "Psychiatrist"), approved by the Office of Counsel of the State Bar for a period of six months immediately preceding any petition for reinstatement and shall comply with the course of treatment prescribed, including, but not limited to being present for any appointments scheduled by the Psychiatrist and taking any medication prescribed by the Psychiatrist. The Defendant shall authorize the Psychiatrist to release to the State Bar any and all medical records, including, but not limited to records detailing the course of treatment, any diagnosis, and the Defendant's prognosis. The Defendant has an interest in keeping confidential those records that are subject to the physician-patient privilege, which interest overrides any interest of the public in obtaining disclosure of those records. That interest cannot be protected by any measure short of sealing the records so produced. The State Bar shall keep confidential all Psychiatrist's reports, or other medical records obtained by the State Bar pursuant to this subparagraph, and shall not disclose those records to any person other than employees of the State Bar, except pursuant to an order of the Disciplinary Hearing Commission, or other court of competent jurisdiction.
- d) The Defendant shall submit opinions of the Psychiatrist and the addictions counselor that the Defendant is not currently disabled in any way that would impair his professional judgement and ability to practice law and that any chronic conditions of chemical dependency and/or emotional disorder are being treated in such a manner that likelihood of relapse or recurring disability are remote.
- e) The Defendant shall enter into an Order of long term monitoring by PALS as PALS may deem appropriate for up to three years following the granting of any petition for reinstatement.

- f) The Defendant shall comply with the provisions of 27 N.C. Admin Code Chapter 1, Subchapter B § .0124 concerning the wind down of his practice, and shall cooperate with the Supervising attorney appointed pursuant to the Findings of Fact, Conclusions of Law and Order of Discipline entered in 99 DHC 1 (the "Suspension Order"), to ensure that the terms of this subparagraph are followed.
- g) The Defendant shall pay the reasonable costs of this action.

3. The terms of this order shall run concurrently with the Suspension Order, and the provisions of the Suspension Order shall remain in effect for the period of the Suspension Order if the Defendant is reinstated to active status during the term of the Suspension Order.

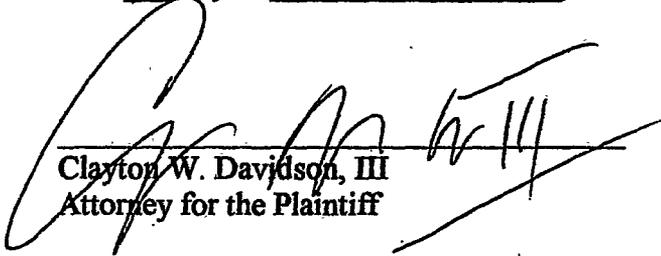
4. The Disciplinary Hearing Commission retains jurisdiction to impose any additional conditions or requirements that may be reasonably necessary for the protection of the public respecting the Defendant's privilege to practice law following the granting of any petition for reinstatement.

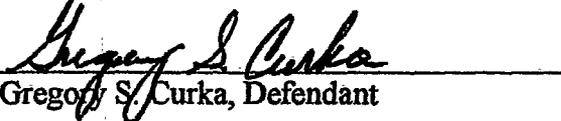
Signed by the undersigned chair with the full knowledge and consent of all other members of the hearing committee this 25 day of February, 1999. ~~2000~~

  
Chair

Both parties stipulate and agree to the findings of fact and conclusions of law recited in this consent order and stipulate and agree to the terms of the order. The Defendant waives his right to have probable cause determined by the grievance committee pursuant to 27 N.C. Admin Code Chapter 1, Subchapter B §.0113(a), and waives his right to hearing before the Disciplinary Hearing Commission. The Defendant waives process and service of process and requests that this order be entered without regard to the fact that no complaint and summons have been served on him.

This 25 day of November, 1999.

  
Clayton W. Davidson, III  
Attorney for the Plaintiff

  
Gregory S. Curka, Defendant