

NORTH CAROLINA
WAKE COUNTY



BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
18 DHC 6

THE NORTH CAROLINA STATE BAR,

Plaintiff

v.

LARRY G. HOYLE, Attorney,

Defendant

COMPLAINT

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, Larry G. Hoyle (hereinafter "Defendant" or "Hoyle"), was admitted to the North Carolina State Bar on 23 March 1990 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.

Upon information and belief:

3. During the relevant period referred to herein, Defendant was actively engaged in the practice of law in Gastonia, Gaston County, North Carolina.

FIRST CLAIM FOR RELIEF

4. Paragraphs 1 through 3 are re-alleged and incorporated as if fully set out herein.

5. Defendant represented T. Robinson in *State v. Robinson*, Gaston County nos. 12 CR 52347 and 12 CR 12684.

6. On 27 August 2013, Defendant requested that the court date in the Robinson case be continued to 11 October 2013.

7. The court date in the Robinson case was continued to 11 October 2013.

8. On 19 September 2013, Defendant submitted a written Designation of Secured Leave for the dates of 10 and 11 October 2013, pursuant to Rule 26 of the General Rules of Practice for the Superior and District Courts.

9. Rule 26 of the General Rules of Practice requires that secured leave designations be filed before any trial, hearing, or other matter has been regularly scheduled or noticed for a time during the designated secured leave period.

10. Because Defendant was scheduled to appear at a hearing on Robinson's behalf on 11 October 2013, Defendant's designation of secured leave for that date was not in compliance with Rule 26 of the General Rules of Practice.

11. On his Designation of Secured Leave, Defendant represented that no action or proceeding in which he had entered an appearance had been scheduled for hearing, trial, or other proceeding during the designated leave period.

12. The statement in Defendant's Designation of Secured Leave that no action or proceeding in which he had entered an appearance had been scheduled for hearing, trial, or other proceeding during the designated secured leave period was false, because the hearing in the Robinson matter was set for 11 October 2013, one of the dates Defendant designated for secured leave in the Designation of Secured Leave.

13. When Defendant indicated in the Designation of Secured Leave that there were no scheduled hearings, trials, or other proceedings in a case in which he had entered an appearance during the period he was designating, he knew the statement was false.

14. In a motion dated 9 October 2013 and filed 10 October 2013, Defendant moved to continue the 11 October 2013 court date in the Robinson matter.

15. Defendant's cited reason for filing the motion to continue was that he could not be present due to his secured leave.

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 asserting to the court in his Designation of Secured Leave form that he had no matters with hearings scheduled during the designated period, Defendant knowingly made a false statement of material fact to a tribunal in violation of Rule 3.3(a)(1) and engaged in conduct involving dishonesty, deceit, or misrepresentation in violation of Rule 8.4(c); and
- (b) By improperly designating 11 October 2013 as secured leave when a hearing was scheduled for that date, falsely certifying that no hearings had been scheduled, and then using his designation of secured leave as the basis for a continuance of the

hearing, Defendant misused the designated leave process in a manner that was prejudicial to the administration of justice in violation of Rule 8.4(d).

SECOND CLAIM FOR RELIEF

16. Paragraphs 1 through 3 are re-alleged and incorporated as if fully set out herein.

17. N. Gomez ("Gomez") was the defendant in *State v. Gomez*, Gaston Co. file nos. 14 CR 060879 and 80.

18. On or about 11 June 2015, Assistant Public Defender Holden Clark was assigned to represent Gomez on his pending charges.

19. On or about 15 June 2015, Frederick M. Dow ("Dow"), a professional bondsman, executed a surety appearance bond in the amount of \$5,000.00 for Gomez in 14 CR 060879 and 80.

20. A hearing was scheduled in 14 CR 060879 and 80 for 27 July 2015.

21. Gomez failed to appear at the 27 July 2015 hearing.

22. As a result of Gomez's failure to appear, an order for his arrest was issued.

23. Gomez's failure to appear also resulted in the issuance of a Bond Forfeiture Notice to Gomez and Dow on 21 August 2015.

24. The notice indicated that, unless the forfeiture was set aside before 18 January 2016, it would become a final judgment enforceable against Gomez and Dow.

25. At some point after Dow received the notice of forfeiture, Dow contacted Defendant regarding Gomez.

26. Dow asked Defendant to strike the Order for Arrest and Order of Forfeiture issued against Gomez.

27. N.C. Gen. Stat. § 58-71-95 states a bail bondsman may not "suggest or advise the employment of, or name for employment any particular attorney to represent his principal."

28. On or about 5 January 2016, Defendant prepared a Motion and Order Striking Order for Arrest and Forfeiture & Rescheduling in 14 CR 060879 and 80.

29. Defendant signed the Motion and Order as counsel for Gomez.

30. Defendant had the form signed by an Assistant District Attorney and presented the form to the court.

31. The court entered the order, thereby releasing Dow from the bond forfeiture.

32. At the time Defendant undertook the actions described in paragraphs 28-30, Defendant had not spoken to Gomez.

33. At the time Defendant undertook the actions described in paragraphs 28-30, Defendant did not represent Gomez.

34. Defendant's actions caused a new court date of 7 March 2016 to be set for Gomez.

35. Defendant had no communication with Gomez about the new court date.

36. Gomez failed to appear for the new court date.

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 Chapter 84 of the General Statutes and the North Carolina the Rules of Professional Conduct in effect at the time of the conduct as follows:

- (a) By taking action in Gomez's case at Dow's request when he lacked authority to act on behalf of Gomez and in a manner inconsistent with ethical and legal requirements, Defendant engaged in conduct prejudicial to the administration of justice in violation of Rule 8.4(d);
- (b) By signing the Motion and Order Striking Order for Arrest and Forfeiture & Rescheduling as counsel for Gomez when he did not represent Gomez, Defendant knowingly made a false statement of material fact to a tribunal in violation of Rule 3.3(a)(1) and engaged in conduct involving dishonesty, deceit, fraud, or misrepresentation in violation of Rule 8.4(c); and
- (c) By failing to inform Gomez of the new court date, Defendant engaged in conduct prejudicial to the administration of justice in violation of Rule 8.4(d).

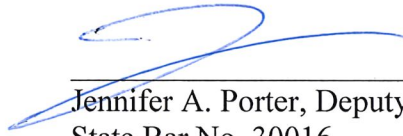
WHEREFORE, Plaintiff, the North Carolina State Bar, prays that:

- 1. Disciplinary action be taken against Defendant, Larry G. Hoyle, in accordance with N.C. Gen. Stat. § 84-28(b) as the evidence on hearing may warrant;
- 2. Defendant be taxed with the costs permitted by law in connection with this proceeding; and
- 3. For such other and further relief as is appropriate.

This is the 16th day of January, 2018.



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



DeWitt F. McCarley, Chair
Grievance Committee