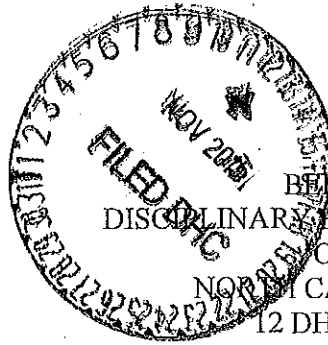


NORTH CAROLINA  
WAKE COUNTY



BEFORE THE  
DISCIPLINARY HEARING COMMISSION  
OF THE  
NORTH CAROLINA STATE BAR  
12 DHC 20 and 15 BSR 8

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IN THE MATTER OF )  
 )  
Petition for Stay of Suspension of ) ORDER ALLOWING  
MARSHALL F. DOTSON, III, ) PETITION FOR STAY  
Attorney )  
 )

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THIS MATTER was heard on October 30, 2015 by a Hearing Panel of the Disciplinary Hearing Commission composed of Walter E. Brock, Jr., Chair, and members Shirley Fulton and Patti Head, pursuant to Marshall F. Dotson, III's August 24, 2015 Petition for Stay. The North Carolina State Bar was represented by Mary D. Winstead. Petitioner Marshall F. Dotson, III ("Dotson?") was represented by T. Keith Black. Based upon the record, the parties' filings, and the evidence presented at the hearing, the Hearing Panel finds by clear, cogent, and convincing evidence the following:

FINDINGS OF FACT

1. On August 7, 2013, a Hearing Panel of the Disciplinary Hearing Commission entered a Consent Order of Discipline ("Order") suspending Dotson from the practice of law for five years effective thirty days from the date the Order was served on Dotson.
2. Dotson was served with the Order on August 9, 2013, and the effective date of the Order was September 8, 2013.
3. The Order provided that Dotson could apply for a stay of any remaining period of suspension after serving one year of the active suspension and upon compliance with the conditions stated in the Order.
4. On August 24, 2015, Dotson filed a verified Petition for Stay requesting that the remainder of his suspension be stayed.
5. In the petition, Dotson asserted that he had "substantially and materially complied with all conditions for a stay."
6. On September 22, 2015, the State Bar filed its Objection to the Petition for Stay on the basis that Dotson had not provided quarterly reports from his psychologist and psychiatrist.

7. The Order provided that to be eligible for a stay of the remaining period of suspension, Dotson had the burden of establishing by clear, cogent and convincing evidence compliance with the following conditions:

- (a) That Defendant had been continuously in treatment with a psychologist and psychiatrist approved in advance by the North Carolina State Bar Office of Counsel and that he had complied with all treatment recommendations of his treating psychologist and psychiatrist, including but not limited to the recommendations made by Dr. Monica Dew in her letter to the State Bar and the recommendations made by Dr. Kim D. Dansie in her July 9, 2011 letter;
- (b) That Defendant had provided the State Bar with a quarterly report due by January 1, April 1, July 1, and October 1 each year of the suspension from the treating psychologist and the treating psychiatrist which addresses any change(s) and the reasons for the change(s) from the recommended treatment in the previous quarter;
- (c) Both the psychologist and psychiatrist certified under oath, that in their professional opinion, Defendant is no longer symptomatically depressed and does not suffer from any mental or physical condition which significantly impairs his professional judgment, performance, or competence;
- (d) That Defendant attached to his reinstatement petition the sworn statements referred to in paragraph 6(c) [of the Order] from the two mental health professionals along with releases signed by Defendant authorizing and instructing the mental health professionals to discuss their evaluations of Defendant with, and to release their medical records relating to Defendant to, a representative of the Office of Counsel;
- (e) That Defendant kept the North Carolina State Bar Membership Department advised of his current business and home addresses and notified the Bar of any change in address within ten days of such change;
- (f) That Defendant responded to all communications from the North Carolina State Bar within thirty days of receipt or by the deadline stated in the communication, whichever is sooner, and participated in good faith in the State Bar's fee dispute resolution process for any petition pending or received after the effective date of this Order;
- (g) That Defendant had not violated the Rules of Professional Conduct or the laws of the United States or any state or local government during his suspension;
- (h) That Defendant had, within 10 days of the date of this order, reimbursed William Redding in the amount of \$750;
- (i) That Defendant had submitted an affidavit to the State Bar within ten days of service of this order certifying that he will not seek to collect any additional

monies from Dr. Venezela Slade-Hartman or Melissa White for representation on the matters that are the subject of the complaint in this matter;

- (j) That if Defendant proposes to practice law as a sole practitioner if the stay is granted, he made arrangements for a member in good standing with the State Bar who practices law in the county where he proposes to practice and who has been approved by the State Bar, to serve as a practice monitor; and that the selected monitor agreed to so serve and agreed to submit monthly reports to the Office of Counsel of the State Bar;
- (k) That Defendant developed a written policies and procedures manual for his office staff which has been approved by the practice monitor and which includes procedures to ensure compliance with the Rules of Professional Conduct; and
- (l) That Defendant otherwise complied with the requirements of 27 N.C.A.C. 1B, §.0125(b).

8. According to the Order, Dotson was required to provide quarterly reports from his psychologist and psychiatrist if there was any change in treatment. The evidence established that there was no change in treatment during the period of active suspension until just before Dotson filed his petition when his psychiatrist determined he did not need to continue with the antidepressant medication.

9. Dotson consented under oath to limit to forty (40) the number of domestic cases he handles at any given time.

10. Although Dotson intends to practice law in The Wright Law Firm and not as a solo practitioner, Dotson consented under oath to having two attorneys, Holly Wright and Robert Gray, III, monitor his practice during the period of the stay.

11. Dotson intends to practice law in Randolph County, North Carolina.

12. Dotson has complied with all conditions of the Order.

13. It is appropriate for the remainder of Dotson's suspension to be stayed as long as he complies with the conditions set forth below.

#### CONCLUSIONS OF LAW

1. All parties are properly before the Disciplinary Hearing Commission and the Disciplinary Hearing Commission has jurisdiction over Petitioner, Marshall F. Dotson, III, and the subject matter of the proceeding.

2. Dotson has satisfied the eligibility requirements for a stay set out in the Order of Discipline.

3. In its discretion, the Hearing Panel has determined that the remainder of the suspension imposed in the Order of Discipline should be stayed, subject to conditions designed to protect the public.

ORDER

1. Based on the foregoing, it is ORDERED that Dotson's Petition for Stay is ALLOWED, the balance of the suspension of his law license is stayed, and he shall be permitted to resume practicing law subject to the following conditions set forth in paragraph 2 below.

2. The balance of Dotson's suspension is stayed so long as Dotson complies with the following conditions:

- (a) Dotson shall keep the North Carolina State Bar Membership Department advised of his current business and home addresses;
- (b) Dotson shall respond to all communications from the North Carolina State Bar within thirty days of receipt or by the deadline stated in the communication, whichever is sooner, and participate in good faith in the State Bar's fee dispute resolution process for any petition pending or received during the stay;
- (c) Dotson shall not violate the Rules of Professional Conduct or the laws of the United States or any state or local government;
- (d) Dotson shall timely comply with all State Bar membership and continuing legal education requirements and shall pay all fees and costs assessed by the applicable deadline;
- (e) Should Dotson cease practicing law with The Wright Law Firm for any reason, he shall notify the State Bar within thirty days of leaving the firm that he has left the firm and the address of any law firm with whom he becomes associated;
- (f) Defendant must limit his practice to one law office and the practice of law to only one county, which he has identified as Randolph County, North Carolina;
- (g) In the event Dotson moves to another county or accepts employment in a county other than the county in which he is currently practicing, he must notify the State Bar in advance of this occurrence, wind down his practice in the county in which he is currently practicing, and continue to limit his practice to only one county;
- (h) Dotson must enter into a written fee agreement with every client (except in criminal cases) and the fee agreement must state with specificity the legal work Defendant is undertaking to perform;
- (i) Unless Dotson is on secure leave pursuant to Rule 26 of the General Rules of Practice for the Superior and District Courts, Defendant must personally respond to communications from his clients within twenty-four hours or direct a member of his staff to provide clients a time when Defendant will respond and in that case;

Defendant shall respond within forty-eight hours and in no event shall Defendant fail to personally respond within forty-eight hours;

- (j) In the event Dotson is on secure leave, he must leave messages on all of his voice mail boxes and e-mail accounts informing the caller/correspondent when he will return from secure leave and must return all calls and email messages within forty-eight hours of that time;
- (k) Upon request of any client, Dotson must, in accordance with Rule 1.16(c) of the Rules of Professional Conduct, provide the client with his/her file within forty-eight hours of the request;
- (l) Dotson must remain in treatment with his psychologist and with his psychiatrist as recommended by his psychologist and comply with any recommendations of his mental health professional;
- (m) Dotson must provide the State Bar with a quarterly report due by January 1, April 1, July 1, and October 1 each year from the treating psychologist which addresses whether Dotson is in compliance with the treatment recommendations, whether there is any change(s) in the recommendations and if so, the reasons for the change(s) from the recommended treatment in the previous quarter;
- (n) Dotson must limit his work hours as recommended by his mental health professionals;
- (o) Dotson must meet monthly with his two practice monitors to whom he shall report the status of all current client matters, and provide any information the monitors deem reasonably necessary to ensure that Dotson is diligently handling all client matters and complying with the terms of this order. Beginning the first day of the next calendar quarter following the effective date of the stay and thereafter on every January 1, April 1, July 1, and October 1 during the stayed suspension, Dotson will deliver to the Office of Counsel written reports signed by the monitors confirming that the meetings are occurring, that Dotson is reporting on the status of Defendant's client matters to the monitors, and that the practice monitors are satisfied with the status of such client matters and Dotson's compliance with this order. Dotson must pay all costs associated with the monitor arrangement;
- (p) Dotson must limit his caseload in accordance with the advice of his practice monitors, may not undertake to represent clients in domestic relations cases without the express approval of the practice monitors, and shall limit the number of pending domestic cases he is handling to forty; and
- (q) In the event that in the future, during the suspension period, Dotson decides not to be actively engaged in the practice of law in any manner, whether in private practice, public service, as corporate counsel, or in any other form, Defendant shall notify the State Bar by the first day of the next calendar quarter (January 1, April 1, July 1, and October 1) by written communication under oath, that

Defendant has not so engaged in the practice of law during the preceding three months.

3. If Dotson fails to comply with one or more of the conditions stated in Paragraph 2 above, then the stay of suspension of his law license may be lifted as provided in 27 N.C.A.C. 1B § .0114(x) of the North Carolina State Bar Discipline and Disability Rules. If the stay granted herein is lifted or the suspension of Dotson's license is activated for any reason, before a subsequent stay of the suspension can be entered, Petitioner must show by clear, cogent, and convincing evidence that he has complied with the conditions referenced in Paragraph 6 of the August 7, 2013 Order of Discipline.


4. Unless Dotson's obligations under this Order are modified by further order of the DHC, Dotson's obligations under this Order end five years from the effective date of the August 7, 2013 Order provided there are no motions or proceedings pending alleging lack of compliance with the conditions of the stay of the suspension.

5. Pursuant to § .0114(x) of the North Carolina Discipline and Disability Rules, the DHC retains jurisdiction until all conditions of the stay of the suspension have been met. If a motion or proceeding alleging lack of compliance with the conditions for the stay of the suspension is pending when the period of the stay of the suspension would otherwise have terminated, the DHC retains the jurisdiction and ability to lift the stay of the suspension and activate the suspension in whole or in part if it finds that any of the conditions of the stay have not been met. The stay of the suspension and Dotson's obligation to comply with the conditions for the stay will continue until resolution of any such pending motion or proceeding.

6. Dotson is taxed with the costs and administrative fees of this proceeding, which Petitioner shall pay within 30 days of the date of this Order.

7. This Order is effective immediately upon entry.

Signed by the undersigned Chair with the full knowledge and consent of the other Hearing Panel members, this the 12th day of November, 2015.

  
Walter E. Brock, Jr., Chair  
Disciplinary Hearing Panel