

NORTH CAROLINA
WAKE COUNTY



BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
23 DHC 7

THE NORTH CAROLINA STATE BAR,
Plaintiff
v.
LONNIE W. CARRAWAY, Attorney,
Defendant

CONSENT ORDER
OF
DISCIPLINE

THIS MATTER came before a hearing panel of the Disciplinary Hearing Commission composed of Brian O. Beverly, Chair, DeWitt F. McCarley, and Brandon Gosey. Alex G. Nicely represented the Plaintiff, the North Carolina State Bar. Defendant, Lonnie W. Carraway, represented himself *pro se*. Defendant waives a formal hearing in this matter. The parties stipulate and agree to the findings of fact and conclusions of law recited in this Order, and consent to the discipline imposed by this Order. By consenting to the entry of this Order, Defendant knowingly, freely, and voluntarily waives his right to appeal this Consent Order or to challenge in any way the sufficiency of the findings and conclusions herein.

Based on the pleadings and the stipulated facts, and with the consent of the parties, the Hearing Panel hereby finds by clear, cogent, and convincing evidence 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, Lonnie W. Carraway ("Defendant"), was licensed to practice law in North Carolina on August 21, 1983, 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 all or part of the relevant periods referred to herein, Defendant was engaged in the practice of law in the State of North Carolina and maintained a law office in Snow Hill, Greene County, North Carolina.
4. On June 29, 2019, Defendant drove a motor vehicle on a public street or highway in Snow Hill, North Carolina, while under the influence of Zolpidem, an impairing substance under N.C. Gen. Stat. § 20-4.01(14a). Defendant failed to maintain lane control within a single lane and collided with another vehicle.

5. As a result of the conduct described in paragraph 4 above, Defendant was charged with Driving While Impaired (“DWI”) in violation of N.C. Gen. Stat. § 20-138.1 and Failure to Maintain Lane Control in violation of N.C. Gen. Stat. § 20-146(D)(1) in Greene County file nos. 19 CR 50323 and 19 IF 700391, respectively.

6. On June 27, 2020, while files 19 CR 50323 and 19 IF 700 were still pending, Defendant again drove a motor vehicle on a public street or highway in Snow Hill, North Carolina, while under the influence of Zolpidem, an impairing substance under N.C. Gen. Stat. § 20-4.01(14a).

7. As a result of the conduct described in paragraph 6 above, Defendant was charged with DWI in violation of N.C. Gen. Stat. § 20-138.1, in Greene County file no. 20 CR 50289.

8. On October 23, 2020, Defendant pled guilty to and was convicted of one count of Driving While Impaired in violation of N.C. Gen. Stat. § 20-138.1 in *State of North Carolina v. Lonnie Carraway*, Greene County file no. 19 CR 50323. Pursuant to the plea agreement, the State dismissed the Failure to Maintain Lane Control charge against Defendant. Defendant received a six-month suspended sentence upon his guilty plea.

9. Also on October 23, 2020, Defendant pled guilty to and was convicted of one count of Driving While Impaired in violation of N.C. Gen. Stat. § 20-138.1 in *State of North Carolina v. Lonnie Carraway*, Greene County file no. 20 CR 50289. Defendant received a 120-day suspended sentence upon his guilty plea.

10. The multiple instances of Defendant driving while impaired constitute criminal offenses showing professional unfitness under 27 N.C. Admin. Code 1B.0103(17).

Based on the foregoing Findings of Fact and with the consent of the parties, the Hearing Panel makes the following:

CONCLUSIONS OF LAW

1. All parties are properly before the Hearing Panel and the Panel has jurisdiction over Defendant, Lonnie W. Carraway, and the subject matter of this proceeding.

2. Defendant’s conduct, as set out in the stipulated Findings of Fact above, constitutes grounds for discipline as follows:

- a) Pursuant to N.C. Gen. Stat. § 84-28(b)(1) in that Defendant was convicted of, and tendered a plea of guilty to, a criminal offense showing professional unfitness; and
- b) 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 the conduct as follows:
 - i) By driving a motor vehicle on a public street or highway while under the influence of an impairing substance on June 29, 2019, and by driving a motor vehicle on a public street or highway while under the influence of

an impairing substance on June 27, 2020, Defendant committed criminal acts pursuant to N.C. Gen. Stat. § 20-138.1 that reflect adversely on his honesty, trustworthiness or fitness as a lawyer in violation of Rule 8.4(b).

Based upon the foregoing Findings of Fact, Conclusions of Law and with the consent of the parties, the Hearing Panel finds by clear, cogent and convincing evidence the following:

ADDITIONAL FINDINGS REGARDING DISCIPLINE

1. The findings of fact above are incorporated as if set forth herein.
2. Defendant's criminal conduct caused the potential for significant harm to the legal profession and the public's perception of the legal profession, as it shows a disregard for his obligations as an attorney and an officer of the court. The public expects that attorneys will abide by the law and Defendant's conduct shows a disregard for his obligation to obey the laws of this State.
3. Defendant entered into a plea agreement with the State of North Carolina resolving the criminal charges without a trial.
4. Defendant has accepted responsibility for his behavior, as indicated by his guilty pleas, his admission to every allegation contained within the Complaint and his acknowledgement that his actions violated the Rules of Professional Conduct.
5. Defendant expressed remorse for his actions and was cooperative throughout the State Bar's investigation of this matter.
6. In February 2012, Defendant pled guilty to and was convicted of one count of impaired driving in violation of N.C. Gen. Stat. § 20-138.1. In August 2012, Defendant received a Public Reprimand from the Judicial Standards Commission in relation to that conviction.
7. Defendant has no prior professional discipline with the State Bar.
8. Defendant enjoys an otherwise good reputation in the legal community.

Based upon the foregoing Findings of Fact, Conclusions of Law, Additional Findings Regarding Discipline, and with the consent of the parties, the Hearing Panel enters the following:

CONCLUSIONS REGARDING DISCIPLINE

1. The Hearing Panel has considered all of the factors enumerated in 27 N.C. Admin. Code 1B.0116(f)(1) and concludes that the following factors that warrant suspension or disbarment are present:
 - a. Intent of the Defendant to commit acts where the harm or potential harm is foreseeable; and

- b. Negative impact of Defendant's actions on the public's perception of the profession.

2. The Hearing Panel has considered all of the factors enumerated in 27 N.C. Admin. Code 1B.0116(f)(2) and concludes that no factors are present that warrant disbarment.

3. The Hearing Panel has considered all of the factors enumerated in 27 N.C. Admin. Code 1B.0116(f)(3) and concludes that the following factors are applicable in this matter:

- a. Multiple offenses;
- b. Effect of any personal or emotional problems on the conduct in question;
- c. Full and free disclosure to the hearing panel or cooperative attitude toward the proceedings;
- d. Remorse;
- e. Character or reputation; and,
- f. Degree of experience in the practice of law.

4. The Hearing Panel has considered issuing an admonition, reprimand or censure but concludes that such discipline would not be sufficient. The Hearing Panel concludes that such discipline would fail to acknowledge the seriousness of the violations committed by Defendant and would send the wrong message to attorneys and the public regarding the conduct expected of members of the Bar in this State.

Based on the foregoing Findings of Fact, Conclusions of Law, Additional Findings of Fact Regarding Discipline, Conclusions Regarding Discipline, and with the consent of the parties, the Hearing Panel enters the following:

ORDER OF DISCIPLINE

1. Defendant, Lonnie W. Carraway, is hereby suspended from the practice of law for one year, effective thirty days from service of this Order upon Defendant.

2. Defendant is taxed with the costs and administrative fees of this action as assessed by the Secretary.

3. The one-year suspension is stayed for a period of one year as long as Defendant complies, and continues to comply during the period of the stay, with the following conditions:

- (a) Defendant shall pay the administrative fees and costs of this proceeding as assessed by the Secretary of the State Bar within ninety days of service of the statement of administrative fees and costs upon him;
- (b) Within 60 days of entry of this Order, Defendant shall undergo an evaluation by a board-certified psychiatrist, psychologist, or certified mental health

counselor (collectively "Clinician") engaged by Defendant, who has expertise in evaluating substance-use disorders and who has been approved in advance by the Office of Counsel. Prior to the evaluation, Defendant shall provide a written, signed release to the Office of Counsel authorizing the Clinician to communicate with the Office of Counsel and to release to the Office of Counsel records relating to the Clinician's evaluation of and conclusion regarding Defendant's mental health status, regarding the Clinician's treatment recommendations, and regarding Defendant's compliance with the Clinician's treatment recommendations. Defendant shall not revoke this release during the period of the suspension or any stay thereof. Defendant shall ensure that the Clinician provides a comprehensive written report of the Clinician's evaluation of Defendant to the Office of Counsel within thirty days after the evaluation has been completed. The report shall identify what mental, psychological, behavioral, or cognitive factors or disorders contributed to Defendant's misconduct and shall recommend appropriate treatment to address and modify the identified factors contributing to Defendant's misconduct. Defendant shall comply with all treatment recommendations made by the Clinician, subject to the terms listed in subparagraphs 3(c) through 3(e) of this section of the Order;

- (c) Defendant shall provide written releases to the Office of Counsel authorizing all providers from whom he receives treatment for any psychological, emotional, behavioral or cognitive condition or disorder (collectively "Provider") during the period of the suspension and stayed suspension to communicate with the Office of Counsel and to release to the Office of Counsel records relating to his treatment and compliance with the Provider's treatment recommendations. Defendant shall not revoke these releases during the period of the suspension or any stay thereof. Defendant shall ensure that each Provider from whom he receives treatment for any psychological, emotional, behavioral or cognitive condition or disorder sends written reports to the State Bar Office of Counsel on a quarterly basis, with such reports being due on January 30, April 30, July 30 and October 30 of each year. These reports shall describe all treatment recommendations made by the Provider and shall confirm whether Defendant is in compliance with the Provider's treatment recommendations;
- (d) Defendant shall comply with all treatment recommendations made by the Clinician and all Providers throughout the duration of the stay of the suspension or until such time that Defendant provides to the Office of Counsel written certifications under oath by the Clinician and each Provider that in their professional opinion: (1) Defendant currently does not have any mental, psychological, behavioral, or cognitive conditions or disorders that impair his professional judgment, performance, or competence as an attorney and (2) ongoing treatment and counseling are no longer needed;
- (e) Defendant is solely responsible for the payment of all costs and fees associated with paragraphs 3(b) through 3(d) of this section of the Order;

- (f) Defendant shall keep the State Bar Membership Department and the Office of Counsel advised of his current business and personal physical addresses, telephone numbers and e-mail addresses. Defendant's business address provided to the Membership Department and the Office of Counsel must be a street address, not a P.O. box or P.O. drawer. Defendant shall notify the Membership Department and the Office of Counsel of any changes made to his business and personal physical addresses, telephone numbers and/or e-mail addresses within ten days of such change;
- (g) Defendant shall timely comply with any assessments, charges or surcharges the State Bar is authorized to collect from him, including annual membership fees, all judicial district dues and assessments, and Client Security Fund assessments;
- (h) Defendant shall respond to all communications from any representative of the State Bar within thirty days of receipt of the communication or by the deadline stated in the communication, whichever is sooner;
- (i) Defendant shall participate in good faith in the State Bar's fee dispute resolution process for any petition that is pending at the time of entry of this Order or for which he received notice after the effective date of this Order;
- (j) Defendant shall timely comply with all State Bar continuing legal education ("CLE") requirements and pay all fees and costs assessed by the applicable deadline; and
- (k) Defendant shall not violate any of the Rules of Professional Conduct, the laws of the United States, or the laws of any state or local government, other than minor traffic violations, during the period of the stay.

4. Unless Defendant's obligations under this Order are modified by further order of the Disciplinary Hearing Commission, Defendant's obligations under this Order end one year from the effective date of this Order, provided there are no pending motions and no pending show cause proceedings alleging lack of compliance with the conditions of the stay of the suspension. If a motion or show cause proceeding alleging lack of compliance with the conditions of the stay of the suspension is pending when the period of the stay would otherwise have terminated, the DHC retains jurisdiction to lift the stay and activate the one-year 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 Defendant's obligation to comply with the conditions of the stay will continue until resolution of any such pending motion or show cause proceeding.

5. If Defendant fails to comply with any of the conditions of the stayed suspension provided in paragraphs 3(a) through 3(k) above, the stay of the suspension may be lifted as provided in 27 N.C. Admin. Code 1B.0118.

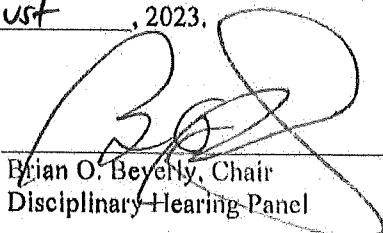
6. If the stay of the suspension is lifted and the suspension is activated for any reason, Defendant may apply for reinstatement after serving the activated suspension by filing a petition with the Disciplinary Hearing Commission along with supporting documentation

demonstrating compliance with the requirements of 27 N.C. Admin. Code 1B.0129(b), as well as the following requirements, by clear, cogent, and convincing evidence:

- (a) Defendant submitted his law license and membership card to the Secretary of the State Bar within thirty days of the date of the order lifting the stay and/or activating the suspension of his law license;
- (b) Defendant properly wound down his law practice and complied with all requirements of 27 N.C. Admin. Code 1B.0128;
- (c) Defendant timely paid all administrative fees and costs assessed against him in this proceeding as reflected on the statement of administrative fees and costs served upon her by the Secretary of the State Bar;
- (d) That within fifteen days of the effective date of the order activating the suspension, Defendant provided the State Bar with an address and telephone number at which clients seeking return of files could communicate with Defendant and obtain such files;
- (e) Defendant provided the client file to any client who requested it within ten days of Defendant's receipt of such request;
- (f) Defendant kept the State Bar Membership Department and the Office of Counsel advised of his current business and personal physical addresses, telephone numbers and e-mail addresses, and notified the Membership Department and Office of Counsel of any changes made to his business and personal physical addresses, telephone numbers and e-mail addresses, within ten days of such change;
- (g) That at the time of his petition for reinstatement, Defendant is current in payment of all membership dues, fees and costs, including all Client Security Fund assessments, and other assessments, charges or surcharges the State Bar is authorized to collect from him, including all judicial district dues and assessments;
- (h) That at the time of his petition for reinstatement, Defendant is not suffering from any mental, psychological, behavioral, or cognitive conditions or disorders that impair his professional judgment, performance, or competence as an attorney;
- (i) Defendant accepted all certified mail from the State Bar sent to the address on record with the State Bar Membership Department;
- (j) Defendant provided full and complete responses to all requests for information from any representative of the State Bar within thirty days of receipt of any such request or by the deadline stated in any such request, whichever is sooner;

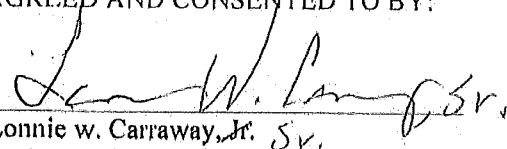
- (k) Defendant participated in good faith in the State Bar's fee dispute resolution process for any petition that was pending at the time of entry of this Order or for which he received notice after the effective date of this Order;
 - (l) That at the time of her petition for reinstatement, there is no deficit in Defendant's completion of mandatory CLE hours, in the reporting of such hours, or in the payment of any fees associated with attendance at CLE programs; and
 - (m) Defendant did not violate the Rules of Professional Conduct, the laws of the United States, or the laws of any state or local government, other than minor traffic violations, during his suspension.
7. If the stay of suspension is lifted and the suspension is activated for any reason, and if Defendant fails to fully comply with 27 N.C. Admin. Code 1B.0128, Defendant shall reimburse the State Bar for any expenses incurred by the State Bar in winding down Defendant's practice. Such expenses may include, but are not limited to, storage facility fees, rent payments, moving expenses, charges for secure disposal of client files, postage or other mailing expenses, and compensation paid to any appointed trustee and/or the trustee's assistant for time and travel associated with the trusteeship. Defendant shall not be eligible for reinstatement until he has reimbursed the State Bar for all wind-down expenses incurred.
8. The Disciplinary Hearing Commission will retain jurisdiction of this matter pursuant to 27 N.C. Admin. Code 1B.0118 throughout the suspension, and any stay thereof, and until all conditions of this Order have been satisfied.

Signed by the Disciplinary Hearing Panel Chair with the consent of the other hearing panel members, this the 22nd day of August, 2023.

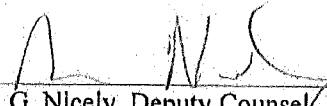


Brian O. Beyenly, Chair
Disciplinary Hearing Panel

AGREED AND CONSENTED TO BY:



Lonnie W. Carraway, Jr. Sr.
Defendant



Alex G. Nicely, Deputy Counsel/
Attorney for Plaintiff