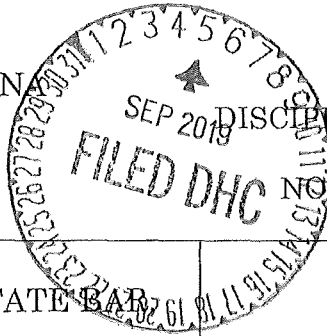


STATE OF NORTH CAROLINA

WAKE COUNTY



BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
19 DHC 10

THE NORTH CAROLINA STATE BAR

Plaintiff

v.

BROOKE MCKINLEY WEBSTER,
Attorney

Defendant

CONSENT ORDER
OF
DISCIPLINE

This matter was considered by a Hearing Panel of the Disciplinary Hearing Commission (DHC) composed of Stephanie N. Davis, Chair, and members David W. Long and Ronald C. Brinson, pursuant to 27 N. C. Admin. Code 1B.0115(i). Plaintiff was represented by Carmen Hoyme Bannon. Defendant, Brooke McKinley Webster, was represented by David B. Freedman. Plaintiff and Defendant stipulate and agree to the findings of fact and conclusions of law recited in this Consent Order and to the discipline imposed. Defendant has freely and voluntarily stipulated to the findings of fact and consents to the conclusions of law and entry of the order of discipline. Defendant freely and voluntarily waives any right to appeal the entry of this Consent Order of Discipline.

Based upon the pleadings in this matter, the parties' stipulations of fact, and with the consent of the parties, the Hearing Panel hereby enters the following:

FINDINGS OF FACT

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 (Chapter 1 of Title 27 of the North Carolina Administrative Code).

2. Defendant, Brooke McKinley Webster, was admitted to the North Carolina State Bar in 2004, 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. Defendant was properly served with the summons and complaint in this matter.

4. During all or part of the relevant periods referred to herein, Defendant was engaged in the practice of law in Wilkes and Yadkin Counties, North Carolina.

5. In 2017, Defendant was an Assistant District Attorney in Wilkes County and Yadkin County.

6. In April 2017, Defendant was charged with the criminal offense of secret peeping based on accusations that he used a handheld mirror to look at female students under desks at the Wake Forest University library.

7. In November 2017, Defendant admitted that he was guilty of the charged offense in a deferred prosecution agreement that provided for dismissal of the charge if he complied with all conditions of the agreement for two years. One of the conditions was that Defendant was banned from the Wake Forest University (WFU) campus.

8. In September 2018, Defendant was charged with second-degree trespass for entering the WFU campus.

9. The trespassing charge voided his deferred prosecution agreement, and in January 2019, Defendant pled guilty to both secret peeping and trespassing.

Based upon the consent of the parties and the foregoing stipulated Findings of Fact, the Hearing Panel 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.

2. Defendant's conduct, as set out in the stipulated Findings of Fact above, constitutes grounds for discipline pursuant to N.C. Gen. Stat. §§ 84-28(a) & b)(2) as follows:

- (a) By engaging in secret peeping and trespassing, Webster committed criminal offenses reflecting adversely on his trustworthiness or fitness as a lawyer in violation of Rule 8.4(b) of the Rules of Professional Conduct; and
- (b) By pleading guilty to a criminal offense showing professional unfitness, Webster is subject to discipline pursuant to § 84-28(a).

Upon the consent of the parties, the Hearing Panel also finds by clear, cogent, and convincing evidence the following:

FINDINGS OF FACT REGARDING DISCIPLINE

1. When attorneys commit criminal offenses, it causes potential significant harm to the legal profession and the public's perception of the profession.

2. Due to Defendant's status as a criminal prosecutor at the time of his original criminal offense, there was considerable media coverage of his arrests, which caused a particularly significant risk of harm to public perception of attorneys and the judicial system.

3. When the misconduct described herein came to light, Defendant promptly and voluntarily sought assistance from the Lawyer Assistance Program (LAP), complied with treatment terms, and completed his LAP contract.

4. Defendant participated in therapy for depression, anxiety and stress-related issues.

5. Defendant has no prior professional discipline, and his actions described herein were an aberration from his usual course of conduct.

6. Defendant expressed remorse for his actions and was cooperative with the State Bar's investigation of this matter.

Based on the Findings of Fact and Conclusions of Law above, the additional Findings of Fact Regarding Discipline, and the consent of the parties, the Hearing Panel makes the following:

CONCLUSIONS REGARDING DISCIPLINE

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

- (a) intent of the defendant to commit acts where the harm or potential harm is foreseeable;
- (b) negative impact of defendant's actions on the public's perception of the profession; and
- (c) effect of defendant's conduct on third parties.

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

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

- (a) absence of prior disciplinary offenses in this state or any other jurisdiction;
- (b) multiple offenses;
- (c) effect of any personal or emotional problems on the conduct in question and Defendant's subsequent efforts to address those problems;
- (d) full and free disclosure to the hearing panel or cooperative attitude toward the proceedings;
- (e) remorse; and
- (f) imposition of other penalties or sanctions.

4. The Hearing Panel considered all of the different forms of discipline available to it, including admonition, reprimand, censure, suspension, and disbarment, in considering the appropriate discipline to impose in this case.

5. The Hearing Panel concludes that discipline short of suspension would not adequately protect the public for the following reasons:

- a) Defendant's conduct reflects adversely on his judgment, trustworthiness and fitness as an attorney;
- b) Entry of an order imposing less severe discipline would fail to acknowledge the seriousness of the misconduct and would end the wrong message to attorneys about conduct expected of members of the Bar of this State;
- c) Defendant's conduct caused significant potential harm to the profession.

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

ORDER OF DISCIPLINE

1. The law license of Defendant, Brooke McKinley Webster, is hereby suspended for two years effective thirty days after service of this Order upon Defendant.

2. The two-year suspension is stayed for two years as long as Defendant complies, and continues to comply with the following conditions each year the stay is in effect:

- a) Defendant shall comply with all terms of his sentence in Forsyth County case nos. 17 CR 53760 and 18 CR 58977.
- b) Within 60 days of entry of this Order, Defendant shall undergo a psychological evaluation by a clinician approved by the State Bar's Office of Counsel, the purpose of which is:
 - i. To determine what emotional, behavioral, and/or cognitive factors caused Defendant to commit the offenses described herein;
 - ii. To recommend appropriate treatment to address and modify the identified factors that contributed to Defendant's misconduct;
- c) The approved evaluator shall provide a comprehensive written report to the Office of Counsel within 30 days after the evaluation is completed;
- d) Defendant shall comply with all the evaluator's treatment recommendations. Within 30 days after the evaluation, Defendant shall provide the Office of Counsel the name(s) and contact information for all clinicians and/or entities who will be providing any counseling and/or other treatment recommended by the evaluator;
- e) Defendant shall provide written releases to the Office of Counsel authorizing all providers from whom he receives treatment for any psychological, emotional, or behavioral condition during the period of the 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 stayed suspension;
- f) Defendant shall ensure that each provider from whom he receives treatment for any psychological, emotional, or behavioral condition sends quarterly written reports (due January 30, April 30, July 30, and October 30 each year of the stayed suspension) on a timely basis to the State Bar. These reports shall describe the treatment and confirm that Defendant is: (i) in compliance with all treatment recommendations and (ii) not suffering from any physical or mental

condition that significantly impairs his professional judgment, performance, or competence as an attorney;

- g) Defendant shall be solely responsible for the cost of the evaluation described above, treatment, and any additional charges assessed for preparation of the quarterly reports;
- h) Defendant shall timely comply with all Continuing Legal Education (CLE) requirements;
- i) Defendant shall keep the North Carolina State Bar Membership Department advised of his current business and home addresses and notify the Bar of any change in address within ten days of such change;
- j) Defendant shall respond to all communications from the State Bar, including communications from the Attorney Client Assistance Program ("ACAP"), within thirty days of Defendant's receipt of the communication or by the deadline stated in the communication, whichever is sooner, and shall participate in good faith in the State Bar's fee dispute resolution process for any petition filed with ACAP;
- k) Defendant shall remain current in payment of all State Bar 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, including all judicial district dues, fees and assessments;
- l) Defendant shall not violate the Rules of Professional Conduct or the laws of the United States or of any state or local government (other than minor traffic offenses) during the stayed suspension; and
- m) Defendant shall pay all costs and administrative fees of this proceeding as assessed by the Secretary within 30 days of service of the statement of costs upon him.

3. If during the stay of the suspension Defendant fails to comply with any one or more of the conditions stated in paragraphs 2 (a) through (m) above, the stay of the suspension of his law license may be lifted as provided in Rule .0118(a) of the North Carolina State Bar Discipline and Disability Rules.

4. If the stay of the suspension is lifted and the suspension is activated for any reason, Defendant may petition for reinstatement after serving the activated suspension by filing a petition pursuant to Rule .0129(b) of the North Carolina State Bar Discipline and Disability Rules (27 N.C. Admin. Code 1B.0129)

demonstrating compliance with the requirements therein and the following requirements by clear, cogent, and convincing evidence:

- a) Defendant properly wound down his law practice and complied with the terms of 27 N.C. Admin. Code 1B.0128 of the State Bar Discipline & Disability Rules;
- b) Defendant submitted his license and membership card to the Secretary of the North Carolina State Bar within thirty days after the date of the order lifting the stay and/or activating the suspension of his law license;
- c) Defendant is in compliance with all CLE and membership obligations at the time of the filing of his petition for reinstatement;
- d) Defendant kept the Membership Department of the State Bar advised of his physical address (not a Post Office box), telephone number, and e-mail address throughout the period of his suspension;
- e) Defendant accepted all certified mail from the State Bar sent to the address on record with the Membership Department of the North Carolina State Bar;
- f) Defendant responded to all letters of notice and requests for information from the North Carolina State Bar by the deadline stated therein with full and complete responses and all requested documentation;
- g) Defendant did not violate any of the Rules of Professional Conduct in effect during the period of the suspension;
- h) Defendant did not violate any laws of the State of North Carolina or of the United States (other than minor traffic offenses) during the period of the suspension; and
- i) Defendant paid all DHC costs and administrative fees assessed by the Secretary by the date of the filing of his petition for reinstatement.

5. 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 and the Court appoints a trustee to wind down any portion of Defendant's practice, Defendant shall reimburse the State Bar for all 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 the trustee and/or the trustee's assistant for time and travel associated with the

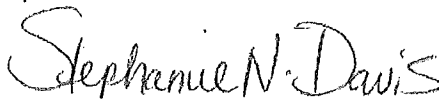
trusteeship. After the Court has discharged the trustee, the State Bar shall send an invoice of wind-down expenses to Defendant at Defendant's last known address of record with the North Carolina State Bar. Defendant shall not be eligible for reinstatement until he has reimbursed the State Bar for all wind-down expenses incurred.

6. Unless Defendant's obligations under this Order are modified by further order of the DHC, Defendant's obligations under this Order end two years from the effective date of the Order provided there are no motions or show cause proceedings pending alleging lack of compliance with the conditions of the stay of the suspension. Pursuant to 27 N.C. Admin. Code 1B § .0118(a), the DHC retains jurisdiction until all conditions of the stay of the suspension have been met. If a motion or show cause 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 two 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 for the stay will continue until resolution of any such pending motion or show cause proceeding.

7. Defendant is taxed with the administrative fees and costs of this action as assessed by the Secretary of the North Carolina State Bar which shall be paid within thirty days of service of the statement of costs upon Defendant.

Signed by the undersigned Hearing Panel Chair with the consent of the other Hearing Panel members.

This the 4th day of September 2019.

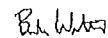


Stephanie N. Davis, Chair
Disciplinary Hearing Panel

Agreed and consented to by:



David B. Freedman
Attorney for Defendant



Brooke McKinley Webster
Defendant

Carmen H. Bannon

Carmen Hoyme Bannon

Attorney for Plaintiff