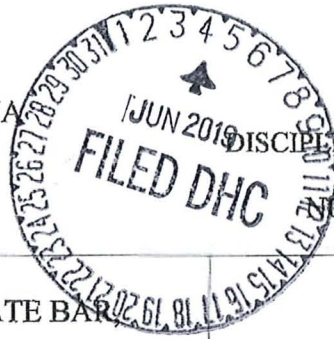


STATE OF NORTH CAROLINA  
WAKE COUNTY



BEFORE THE  
DISCIPLINARY HEARING COMMISSION  
OF THE  
NORTH CAROLINA STATE BAR  
18 DHC 24

THE NORTH CAROLINA STATE BAR

Plaintiff

v.

GILES CAMERON BYRD, Attorney,

Defendant

CONSENT ORDER OF DISCIPLINE

This matter was considered by a Hearing Panel of the Disciplinary Hearing Commission (DHC) composed of Donald C. Prentiss, Chair, and members R. Lee Farmer and Christopher R. Bruffey, pursuant to North Carolina Administrative Code, Title 27, Chapter 1, Subchapter B, § .0115(i). Plaintiff, the North Carolina State Bar, was represented by Carmen Bannon. Defendant, Giles Cameron Byrd, was represented by Alan Schneider. Both Plaintiff and Defendant stipulate and agree to the findings of fact and conclusions of law recited in this Order and to the discipline imposed. Defendant freely and voluntarily stipulates to the findings of fact and consents to the conclusions of law and entry of the order of discipline. Defendant freely and voluntarily waives his right to appeal this Consent Order of Discipline.

Based upon the pleadings in this matter and with the consent of the parties, the Hearing Panel 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, Giles Cameron Byrd, was admitted to the North Carolina State Bar in August 2009 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. Byrd 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 the State of North Carolina and maintained a law office in Whiteville, Columbus County, North Carolina.

5. On or about 23 February 2015 Defendant submitted a petition for limited driving privilege on behalf of Lorenza Lennon in Columbus County District Court.

6. The petition Defendant submitted included an attestation under oath that Lennon had not held a limited driving privilege (LDP) at any time during the three years prior to the date of the petition and that he had no pending charges for any motor vehicle offense in North Carolina.

7. The attestation described above was false: Lennon had previously been issued an LDP on 9 April 2013. Further, on 4 February 2015 Lennon had been charged in Bladen County with DWLR and with driving with fictitious tags.

8. Defendant represented Lennon on the Bladen County charges.

9. When he submitted Lennon's LDP petition to the court, Defendant knew or should have known that it contained false information.

10. Defendant used the LDP he obtained for Lennon to obtain voluntary dismissals of Lennon's pending traffic charges in Bladen County.

11. In December 2016, Defendant pled guilty and was convicted of misdemeanor obstruction of justice for his conduct in Lennon's case (Columbus County file no. 14-CR-703274). The Court placed him on unsupervised probation for 12 months and imposed a \$100.00 fine.

12. Defendant represented Lamorris Chestnut on charges of failure to report a new address while on the sex offender registry and resisting a police officer.

13. On 18 February 2016, Defendant met with the ADA and negotiated an agreement pursuant to which Chestnut would plead guilty to one charge and the other would be dismissed.

14. Defendant told the ADA that his client couldn't sign the Transcript of Plea at that time because Chestnut was in a holding cell, where he was unable to pass papers back and forth.

15. The ADA then signed the Transcript of Plea, which—aside from Chestnut's signature—was complete. Defendant took the document to obtain his client's signature.

16. When Defendant returned to Superior Court later that morning to present Chestnut's plea, he submitted to the Court a Transcript of Plea that had the guilty plea struck through and instead indicated that Chestnut pled no-contest.

17. Defendant had modified the document after the ADA signed it in order to get his client to accept the deal.

18. Although Defendant brought this modification to the Court's attention, the modification was made without the ADA's prior knowledge, authorization or approval.

19. Defendant represented Rutilo Ezpinoza Andres in a custody action, *Andres v. Jones*, Columbus County file no. 13-CVD-652.

20. On 14 May 2013, Defendant filed a complaint for child custody and motion for *ex-parte* order in 13-CVD-652.

21. After filing the complaint and motion on 14 May 2013, Defendant obtained an *ex-parte* emergency custody order granting Andres custody of the child pending a ten-day hearing.

22. Defendant had a summons issued on 14 May 2013, but failed to serve Jones with the summons and complaint before the summons expired 90 days later.

23. On 24 May 2013, Defendant filed a motion for order to show cause, seeking to have Jones held in contempt of court for failure to comply with the 14 May 2013 *ex-parte* order.

24. At the time he filed the motion for order to show cause, Defendant knew or should have known that Jones had not been properly served with the *ex-parte* order.

25. When the summons, complaint, and *ex-parte* order were belatedly served on Jones on 21 August 2013, the child was immediately removed from Jones's custody and delivered to Andres. Jones then hired a lawyer to get her daughter back.

26. On 12 September 2013, Andres' custody action was dismissed for insufficient service of the complaint, and the *ex-parte* order was deemed invalid.

Based upon the consent of the parties and the foregoing Findings of Fact, the Hearing Panel enters the following:

#### CONCLUSIONS OF LAW

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

2. Defendant's conduct, as set out in the Findings of Fact above, constitutes grounds for discipline pursuant to N.C. Gen. Stat. §§ 84-28(b)(1) in that he was convicted of a criminal offense showing professional unfitness and (b)(2) in that he violated one or more of the Rules of Professional Conduct in effect at the time of his actions as follows:

- (a) By submitting a false attestation to the court for the purpose of obtaining an LDP, which he then used to have other pending charges dismissed, Defendant committed a criminal act (obstruction of justice) reflecting adversely on his honesty, trustworthiness and fitness as a lawyer in violation of Rule 8.4(b), engaged in conduct involving dishonesty, deceit, or misrepresentation in violation

of Rule 8.4(c), and engaged in conduct prejudicial to the administration of justice in violation of Rule 8.4(d);

- (b) By changing the substance of a document after it was signed by the opposing party without that party's authorization, Defendant engaged in conduct involving deceit or misrepresentation in violation of Rule 8.4(c);
- (c) By continuing to pursue a case in which the summons and complaint were never served, and in which he failed to maintain the viability of the action with an alias and pluries summons, Defendant failed to act with reasonable diligence on behalf of a client in violation of Rule 1.3; and
- (d) By seeking to have the opposing party held in contempt for noncompliance with an order that was no longer valid and had not been properly served, Defendant asserted an issue for which there was no basis in fact or law in violation of Rule 3.1 and engaged in conduct prejudicial to the administration of justice in violation of Rule 8.4(d).

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

ADDITIONAL FINDINGS REGARDING DISCIPLINE

1. The findings of fact in paragraphs 1 – 25 above are reincorporated as if set forth herein.
2. Defendant has no prior professional discipline.
3. At the time of the most recent misconduct described herein, Defendant had only been practicing law for six and a half years. At the time of the earliest misconduct, he had been licensed for four years.
4. Some of Defendant's misconduct is attributable to inexperience and inadequate training.
5. Defendant's conviction of obstruction of justice received public attention, causing significant harm by bringing the legal profession into disrepute and undermining public confidence in the integrity of the profession.
6. It was foreseeable that Defendant's actions in Andres' child custody would cause harm to his client's interests and to Jones, and potential harm to their child.
7. The efficient and orderly operation of the court system depends upon the court's ability to trust representations by lawyers. When a lawyer presents false information to the court it undermines that trust, causing significant harm to the administration of justice.
8. Defendant has expressed sincere remorse for his misconduct and has fully cooperated with the State Bar's disciplinary process.

Based upon the Findings of Fact, Conclusions of Law, Additional Findings Regarding Discipline, and the consent of the parties, the Hearing Panel makes the following

ADDITIONAL CONCLUSIONS REGARDING DISCIPLINE

1. The Hearing Panel has carefully considered all of the different forms of discipline available to it and has considered all of the factors enumerated in 27 N.C. Admin. Code 1B .0116(f).

2. The Hearing Panel concludes that the following factors from Rule .0116(f)(1) warrant consideration of suspension of Defendant's license:

- (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;
- (c) negative impact of the defendant's actions on the administration of justice;
- (d) effect of defendant's conduct on third parties; and
- (e) acts of dishonesty, misrepresentation, deceit, or fabrication.

3. The Hearing Panel has considered all the factors enumerated in Rule .0116(f)(2) and concludes that although Defendant engaged in dishonest conduct, disbarment is not required under the unique circumstances of this case.

4. The Hearing Panel has considered all the factors enumerated in Rule .0116(f)(3) and concludes the following factors are applicable:

- (a) absence of prior disciplinary offenses;
- (b) multiple offenses;
- (c) cooperative attitude toward the proceedings;
- (d) remorse;
- (e) relative inexperience in the practice of law; and
- (f) imposition of other penalties or sanctions.

5. The Hearing Panel has considered admonition, reprimand and censure as potential discipline but finds that any sanction less than suspension would fail to acknowledge the seriousness of the offenses committed by Defendant.

6. In light of Defendant's criminal conviction, dishonest conduct, and the substantial harm his actions caused to the profession, the administration of justice, a client, and a third party, the Hearing Panel concludes that no discipline short of suspension of Defendant's license will adequately acknowledge the seriousness of the offenses Defendant committed and send the proper message to attorneys and the public regarding the conduct expected of members of the Bar of this State.

7. To protect the public, Defendant should be required to complete Continuing Legal Education during any period of active suspension and should be supervised by a practice monitor during any period of stayed suspension.

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

ORDER OF DISCIPLINE

1. Defendant's law license is hereby suspended for four years, effective 30 days after service of this Order upon Defendant.

2. Defendant shall surrender his law license and permanent membership card to the Secretary of the North Carolina State Bar no later than 30 days following the effective date of this Order. If Defendant no longer has his license and/or membership card, he shall so state in the affidavit referred to in paragraph 3 below.

3. Defendant shall comply with the wind-down provisions contained in 27 N.C. Admin. Code 1B § .0128. As provided in § .0128(d), Defendant shall file an affidavit with the Secretary of the North Carolina State Bar within 10 days of the effective date of this order, certifying he has complied with the wind down rule.

4. Within 30 days after service of this Order, Defendant shall provide the State Bar's Office of Counsel with an address and telephone number at which clients seeking return of files can communicate with Defendant and obtain their files.

5. Defendant shall promptly return client files in his possession, custody, or control to clients within five days after receiving a client's request for the file. Defendant will be deemed to have received a client's request for his or her file three days after the date the request is sent if the request is sent to the address Defendant provides to the State Bar pursuant to paragraph 4, above.

6. Within 30 days of the effective date of this Order, Defendant shall provide documentation to the Office of Counsel demonstrating that he has disbursed any funds remaining in his attorney trust account to the rightful owners and has initiated the escheatment process for any funds in the trust account required to be escheated.

7. Defendant shall pay the administrative fees and costs of this proceeding as assessed by the Secretary of the State Bar within 30 days of service upon him of the statement of administrative fees and costs.

8. Two years from the effective date of this order, Defendant may apply for a stay of the remaining period of suspension imposed by this Order by filing a motion with the Clerk of the Disciplinary Hearing Commission pursuant to 27 N.C. Admin. Code 1B §.0118(c). Defendant may file the motion up to 60 days prior to the date of eligibility to apply for a stay but no stay will be allowed until at least two years from the effective date of this order. In addition to complying with the general provisions for reinstatement listed in 27 N.C. Admin. Code 1B §.0129(b), to be eligible for reinstatement Defendant must demonstrate by clear, cogent, and

convincing evidence that during the period of suspension he complied with the following conditions:

- (a) Defendant shall timely comply with paragraphs 2-7 of this section of the Order of Discipline;
- (b) Each year during the period of active suspension Defendant shall complete at least twelve hours of Continuing Legal Education (CLE) accredited by the North Carolina State Bar. Of those 12 hours of CLE, one hour must be on the topic of trust accounting, one hour must satisfy the State Bar's technology CLE requirement, and three hours must be devoted to legal ethics;
- (c) Prior to applying for a stay, Defendant shall arrange for an active member in good standing of the North Carolina State Bar who has been approved by the Office of Counsel and practices in the county of Defendant's practice to serve as Defendant's practice monitor. In conjunction with his motion seeking a stay, Defendant must supply the Office of Counsel with a letter from the approved monitoring attorney confirming his or her agreement to: (a) meet with Defendant monthly to review Defendant's cases; (b) provide supervision to ensure that Defendant timely and completely handles client matters; and (c) provide written quarterly reports of this supervision to the Office of Counsel.
- (d) Defendant shall keep the North Carolina State Bar membership department advised of his current physical home and business addresses and telephone numbers, and shall notify the membership department within ten days of any change in contact information;
- (e) Defendant shall accept all certified mail from the North Carolina State Bar and respond to all letters of notice and requests for information from the North Carolina State Bar by the deadline stated in the communication;
- (f) Defendant shall timely comply with State Bar membership and continuing legal education requirements, and shall pay any fees and costs assessed by the State Bar and the Client Security Fund by the applicable deadline;
- (g) Defendant shall participate fully and timely in the State Bar's fee dispute resolution program when notified of any petitions for resolution of disputed fees; and
- (h) Defendant shall not violate the Rules of Professional Conduct or any state or federal laws other than minor traffic violations during the period of suspension.

9. If Defendant successfully seeks a stay of the suspension of his law license pursuant to this Order, any stay will continue in force only as long as Defendant complies with the following conditions:

- (a) Defendant shall ensure that his practice monitor submits quarterly reports to the Office of Counsel on the following dates as they occur during the duration of the

stay of the suspension: January 30, April 30, July 30, and October 30. Defendant will be responsible for the cost, if any, charged by the monitor for this supervision;

- (b) If Defendant's practice monitor fails to submit any report required by this Order, it shall be grounds to lift the stay and activate the suspension;
- (c) Defendant shall keep his address of record current with the State Bar and respond to all letters of notice and requests for information from the State Bar by the deadline stated in the communication;
- (d) Defendant shall timely comply with his State Bar membership and continuing legal education requirements and pay all fees and costs assessed by the applicable deadline;
- (e) Defendant shall participate fully and timely in the fee dispute resolution process when notified of any petitions for resolution of disputed fees;
- (f) Defendant shall not violate the laws of the United States or any state or local government, other than minor traffic violations; and
- (g) Defendant shall not violate any provision of the Rules of Professional Conduct.

10. If Defendant fails to comply with one or more of the conditions stated in Paragraph 9 above, then the stay of the suspension of his law license may be lifted as provided in 27 N.C.A.C. 1B § .0118(a). If the stay granted herein is lifted or the suspension of Defendant's license is activated for any reason, before a subsequent stay of the suspension can be entered Defendant must show by clear, cogent, and convincing evidence that he has complied with each of the conditions referenced in Paragraph 8.

11. If Defendant does not seek a stay of the active suspension of his law license or if some part of the suspension is stayed and thereafter the stay is revoked, Defendant must provide in his application for reinstatement clear, cogent, and convincing evidence of compliance with each of the conditions referenced in paragraph 8.

12. The Disciplinary Hearing Commission will retain jurisdiction of this matter throughout the suspension and until all of the conditions referenced in paragraph 8 above are satisfied.

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

This the 4 day of June, 2019.

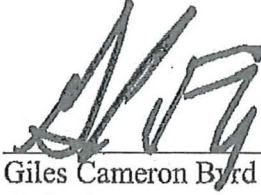


Donald C. Prentiss, Chair  
Disciplinary Hearing Panel

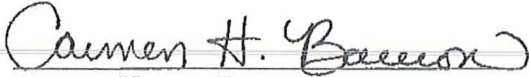
Agreed and consented to by:



Alan M. Schneider  
Attorney for Defendant



Giles Cameron Byrd  
Defendant



Carmen Hoyme Bannan  
Attorney for Plaintiff