

NORTH CAROLINA
WAKE COUNTY

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
17G0445

IN THE MATTER OF)
)
TONZA D. RUFFIN,) CENSURE
ATTORNEY AT LAW)

On January 17, 2019, the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by the North Carolina State Bar. The grievance was assigned to a Subcommittee, which thoroughly reviewed the results of the State Bar staff's investigation of this matter.

Pursuant to section .0113(a) of the Discipline and Disability Rules of the North Carolina State Bar, the Grievance Subcommittee conducted a preliminary hearing. After considering the information available to it, including your response to the letter of notice, the Grievance Subcommittee found probable cause. Probable cause is defined in the rules as "reasonable cause to believe that a member of the North Carolina State Bar is guilty of misconduct justifying disciplinary action."

The rules provide that after a finding of probable cause, the Grievance Committee may determine that the filing of a complaint and a hearing before the Disciplinary Hearing Commission are not required and the Grievance Committee may issue various levels of discipline depending upon the misconduct, the actual or potential injury caused, and any aggravating or mitigating factors. The Grievance Committee may issue an admonition, a reprimand, or a censure.

A censure is a written form of discipline more serious than a reprimand, issued in cases in which an attorney has violated one or more provisions of the Rules of Professional Conduct and has caused significant harm or potential significant harm to a client, the administration of justice, the profession or a member of the public, but the misconduct does not require suspension of the attorney's license.

The Grievance Committee believes that a hearing before the Disciplinary Hearing Commission is not required in this case and issues this censure to you. As chairman of the Grievance Committee of the North Carolina State Bar, it is now my duty to issue this censure.

You represented J.M. on a charge of first-degree murder. J.M.'s co-defendant was represented by a lawyer who you were dating. There was a potential conflict of interest inherent in a dating couple representing co-defendants in a first-degree murder case, in that your personal interests in the romantic relationship could materially limit the representation of your clients. You did not obtain J.M.'s consent to this conflict until the eve of trial, after you had been asked to discuss the potential conflict with the Senior Resident Superior Court Judge. Your failure to timely obtain informed consent to this conflict of interest violated Rule 1.7(a).

On the day J.M.'s case was set for trial, the judge declined to impose a sentence in the mitigated range as proposed in the plea agreement you presented. In response, you said J.M. would not enter the plea unless the sentence was in the mitigated range, and that you would need a continuance because

you weren't prepared for trial. When the judge denied your request for a continuance, you told the DA that you would not be trying the case that day because J.M. was "withdrawing his waiver" to the conflict of interest created by your relationship with co-counsel. When the DA asked you to explain what you meant, you replied "My client is withdrawing his waiver of conflict because it was only a waiver for a plea and I'm not trying this case today." This statement was false in violation of Rule 8.4(c), in that J.M. had signed the waiver before any plea arrangement was offered.

You said you would recommend that J.M. withdraw his consent to the conflict for the sole purpose of preventing the case from going forward that day. You sought to delay J.M.'s trial by any means necessary and to judge-shop if possible, thereby attempting to engage in conduct prejudicial to the administration of justice in violation of Rule 8.4(a).

You are hereby censured by the North Carolina State Bar for your violation of the Rules of Professional Conduct. The Grievance Committee trusts that you will ponder this censure, recognize the error that you have made, and that you will never again allow yourself to depart from adherence to the high ethical standards of the legal profession. This censure should serve as a strong reminder and inducement for you to weigh carefully in the future your responsibility to the public, your clients, your fellow attorneys and the courts, to the end that you demean yourself as a respected member of the legal profession whose conduct may be relied upon without question.

In accordance with the policy adopted July 23, 2010 by the Council of the North Carolina State Bar regarding the taxing of administrative fees and investigative costs to any attorney issued a censure by the Grievance Committee, an administrative fee in the amount of \$350.00 is hereby taxed to you.

Done and ordered, this 8th day of February, 2019.



A. Todd Brown, Sr., Chair
Grievance Committee
The North Carolina State Bar

ATB/lb