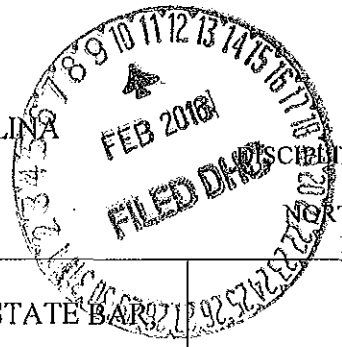

STATE OF NORTH CAROLINA WAKE COUNTY	BEFORE THE DISCIPLINARY HEARING COMMISSION OF THE NORTH CAROLINA STATE BAR 15 BSR 12 & 12 DHC 14
THE NORTH CAROLINA STATE BAR Plaintiff v. DAWN DONLEYCOTT JOHNSON WARREN, Attorney, Defendant	CONSENT ORDER OF REINSTATEMENT

This matter was considered by a hearing panel of the Disciplinary Hearing Commission (DHC) composed of the Chair, Barbara W. Weyher, and members Irvin W. Hankins, III and Randy Moreau. Mary D. Winstead represented Plaintiff, the North Carolina State Bar. Defendant, Dawn Donleycott Johnson Warren (hereinafter "Warren"), was represented by David B. Freedman. This matter is before the DHC upon petition by Warren for reinstatement following three years suspension imposed in the Order of Discipline in this case. Based upon Warren's petition and supporting materials, the State Bar's response and materials, and 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, 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, Defendant, Dawn Donleycott Johnson Warren (hereinafter "Warren" or "Defendant"), was admitted to the North Carolina State Bar on August 26, 2003. Warren's law license was suspended for three years by the Order of Discipline entered in this matter, 12 DHC 14, filed 20 September 2012 and effective on 31 October 2012.

3. The Order of Discipline provided that after serving one year of the suspension, Warren could apply to have the remainder of the suspension stayed upon filing a petition and showing compliance with the following conditions stated in the order by clear, cogent, and convincing evidence:

(a) That within six months prior to Defendant's application for a stay, she has received a comprehensive psychiatric evaluation by a board certified psychiatrist who has been approved in advance by the Office of Counsel of the North Carolina State Bar and that she has complied with any recommended treatment, including, but not limited to, psychotherapy;

(b) That Defendant has provided the State Bar with written authorization allowing the State Bar to provide to the treatment providers(s) information and documents obtained during the disciplinary process that the State Bar deems relevant to Defendant's mental health issues;

(c) That the psychiatrist has certified under oath, based on his/her independent comprehensive evaluation of Defendant, that in his/her professional opinion, 1) Defendant is in compliance with the prescribed course of treatment, including the taking of prescribed medication(s) and is in compliance with any recommended psychotherapy, 2) the treatment plan is controlling any diagnosed psychiatric condition(s) and/or disorder(s), and 3) Defendant does not suffer from any mental, psychological, or emotional condition that significantly impairs her professional judgment, performance, or competence;

(d) That Defendant has kept the North Carolina State Bar Membership Department advised of her current business and home addresses and notified the State Bar of any change in address within ten days of such change;

(e) That Defendant has 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 has participated in good faith in the State Bar's fee dispute resolution process for any petition received after the effective date of this Order;

(f) That Defendant has not violated the Rules of Professional Conduct or the laws of the United States or of any state or local government during her suspension;

(g) That if Defendant proposes to practice law in North Carolina as a sole practitioner if the stay is granted, she has asked a member in good standing with the State Bar who practices law in the county where she proposes to practice and who has been approved by Office of Counsel, to serve as a practice monitor and that the selected monitor has agreed to so serve and has agreed to submit monthly reports to the Office of Counsel;

(h) That she has made restitution in the amount of $10,000 to Ricky Moore; and

(i) That Defendant has otherwise complied with the requirements of 27 N.C.A.C. 1B §.0125(b).

4. Warren completed one year of active suspension on 31 October 2013.

5. Warren applied to have the remainder of her suspension stayed by filing a Petition for Order Staying Suspension and Reinstatement on 22 May 2015.

6. On 22 June 2015, the State Bar filed an Objection to Petition for Stay. The State Bar's concerns giving rise to the objection were as follows:

(a) Warren's petition did not address her compliance with Rule .0124(d) which provides: "Within 10 days after the effective date of the disbarment or suspension order, the disbarred or suspended attorney will file with the secretary an affidavit showing that he or she has fully complied with the provisions of the order, with the provisions of this section, and with the provisions of all other state, federal, and administrative jurisdictions to which he or she is admitted to practice. The affidavit will also set forth the residence or other address of the disbarred or suspended member to which communications may thereafter be directed."

(b) Warren did not provide documentary proof of her payment to Ricky Moore; and

(c) The evaluating psychiatrist had rendered her opinion without reviewing Warren's medical records which the State Bar had in its possession.

7. The hearing on Warren's petition was scheduled for 31 July 2015.

8. On 28 July 2015, Warren filed an affidavit with the Clerk of the Disciplinary Hearing Commission stating that on the effective date of the Order of Discipline, she did not have any clients or pending administrative or litigation matters and providing her address.

9. On 31 July 2015, a hearing panel of the DHC held a hearing upon Warren's Petition for Order Staying Suspension and Reinstatement.

10. On the day of the hearing, Warren provided the undersigned Deputy Counsel with: 1) a letter from the evaluating psychiatrist stating that she had reviewed the records provided by the State Bar and continued to hold the opinion that Defendant does not suffer from any mental, psychological, or emotional condition that significantly impairs her professional judgment, performance, or competence and 2) a copy of the cancelled check evidencing payment to Ricky Moore.

11. After hearing the evidence presented at the hearing, the hearing panel denied Warren's petition.

12. 31 October 2015 marked three years from the date Warren's suspension went into effect.

13. On 1 December 2015, Warren filed a verified Petition for Reinstatement. Warren, through counsel, recited actions taken to comply with the conditions in the Order of Discipline and attached documentation in support of her compliance with some of the conditions. Warren appropriately filed the petition with the Secretary of the State Bar and served a copy on the Office of Counsel of the State Bar.

14. Pursuant to Rule .0125(b)(3), an attorney seeking reinstatement after suspension must file a verified petition with the Secretary, and must show by clear, cogent, and convincing evidence that she is in compliance with Rule .0124 and all applicable orders of the DHC.

15. The Office of Counsel of the State Bar examined Warren's compliance with the requirements for reinstatement pursuant to Rule .0125(b) of the State Bar Discipline and Disability Rules, 27 N.C. Admin. Code 1B § .0125(b), and the Order of Discipline in this matter.

16. On 10 December 2015, the State Bar filed a response to Warren's petition for reinstatement reporting that Warren:

(a) Has paid the costs and administrative fees required by the Order of Discipline, although not timely;

(b) Has complied with Rule .0124(d) although not timely; and

(c) Has otherwise complied with the Order.

CONCLUSIONS OF LAW

1. All the parties are properly before the hearing panel and the panel has jurisdiction over Defendant, Dawn Donleycott Johnson Warren, and the subject matter.

2. Warren has completed three years of active suspension from the practice of law as ordered in 12DHC 14.

3. Although Warren did not timely comply with the filing of the affidavit required by Rule .0124 and the payment of costs, she complied with those provisions to the extent possible prior to filing the Petition for Reinstatement and the lack of compliance is not such that she should be denied reinstatement at this time.

4. In accordance with Rule .0125(b)(2) of the North Carolina State Bar Discipline and Disability Rules, 27 N.C. Admin. Code 1B § .0125(b)(2), Warren is eligible for reinstatement.

THEREFORE, based upon the foregoing Findings of Fact, Conclusions of Law, and the consent of the parties, the hearing panel hereby orders

1. That Dawn Donleycott Johnson Warren is hereby reinstated to the practice of law.

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

Signed by the Chair with the consent of the other hearing panel members, this the 10th day of February, 2016.

Barbara W. Weyher, Chair
Disciplinary Hearing Panel

CONSENTED TO BY:

Dawn Donleycott Johnson Warren
Defendant

David B. Freedman
Defense Counsel

Mary D. Winstead
Deputy Counsel
North Carolina State Bar