

NORTH CAROLINA
WAKE COUNTY

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
22G0109

IN THE MATTER OF)	
)	REPRIMAND
JAMES D. BYERS,)	
ATTORNEY AT LAW)	

On July 21, 2022 the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by W. S. 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 to the respondent attorney.

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

The Grievance Committee was of the opinion that a censure is not required in this case and issues this reprimand to you. As chairman of the Grievance Committee of the North Carolina State Bar, it is now my duty to issue this reprimand.

In April 2018, you were retained by client W.S. to expunge criminal convictions in two separate counties that occurred before he turned 18 years old. In one county, you failed to file a Motion for Appropriate Relief (MAR) until September 2019, and then captioned that MAR with the wrong criminal conviction files numbers sought to be expunged. Although you timely filed a corrected MAR, the Judge only ruled on the original incorrect MAR. However, you failed to follow up on the corrected MAR until March 2022. In the second county, although you were retained to file that MAR in April 2018, you failed to do so until May 2022 after being served with

the grievance in this matter. By failing to file one MAR for over one year, failing to address the corrected but unaddressed MAR for over two years, and failing to file the second county's MAR for over three years you engaged in conduct establishing a pattern of delay, procrastination, forgetfulness, or carelessness indicating a reckless disregard of your professional duties in violation of Rule 1.3. By also failing to adequately communicate with W.S. during this time you failed to reasonably consult with your client about the means by which your client's objectives were to be accomplished and failed to keep your client reasonably informed about the status of the matter in violation of Rule 1.4(a)(2) and (3).

While this disciplinary matter was pending you also threatened to "come after" W.S. after the resolution of this matter. By doing so, you engaged in conduct prejudicial to the administration of justice in violation of Rule 8.4(d).

In determining that a Reprimand was appropriate in this matter, the Committee considered the harm and potential harm that was caused to W.S by your conduct. The Committee also considered your lack of prior discipline for the same or similar conduct, your recognition of the wrongful nature of the conduct, your indication of reformation, and your efforts to rectify the consequences of your conduct.

You are hereby reprimanded by the North Carolina State Bar for your professional misconduct. The Grievance Committee trusts that you will heed this reprimand, that it will be remembered by you, that it will be beneficial to you, and that you will never again allow yourself to depart from adherence to the high ethical standards of the legal profession.

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 reprimand by the Grievance Committee, an administrative fee in the amount of \$350.00 is hereby taxed to you.

Done and ordered, this the 6th day of September, 2022.



Matthew W. Smith, Chair
Grievance Committee

MWS/lb