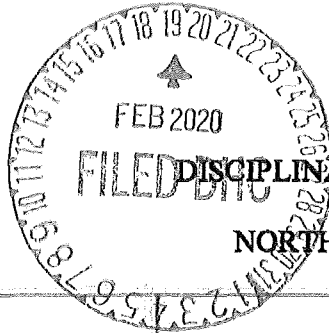


STATE OF NORTH CAROLINA

WAKE COUNTY



BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
07 DHC 28

THE NORTH CAROLINA STATE BAR,

Plaintiff

v.

BRADLEY R. LAMB, Attorney,

Defendant

FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND
ORDER OF DISCIPLINE

THIS MATTER was considered a Hearing Panel of the Disciplinary Hearing Commission composed of Donald C. Prentiss, Chair, and members David W. Long and Tyler B. Morris upon Plaintiff's Motion for Order of Discipline and Corrected Motion for Order of Discipline pursuant to 27 N.C. Admin. Code 1B.0115(g)(2)(B) based upon Defendant's default. Jennifer A. Porter represented Plaintiff, the North Carolina State Bar. Defendant, Bradley R. Lamb, initially appeared *pro se* but did not file an answer to the complaint or any written submissions in response to Plaintiff's Motion for Order of Discipline, and he was not represented by counsel.

After review of the pleadings, the Hearing Panel determines it is appropriate to grant Plaintiff's Motion for Order of Discipline and Corrected Motion for Order of Discipline and to enter this order.

Based upon the pleadings and the facts deemed admitted by the default in this case, pursuant to 27 N.C. Admin. Code 1B.0115(f) and (g)(2)(B), the Hearing Panel hereby 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, Bradley R. Lamb, (hereinafter, "Defendant" or "Lamb"), was admitted to the North Carolina State Bar in 1989, 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.

Defendant's law license is currently suspended under the Order of Interim Suspension entered in this case on November 27, 2007.

3. Defendant was properly served with process and the matter came before the hearing panel with due notice to all parties.

4. The State Bar filed a complaint against Defendant in this action before the DHC on November 13, 2007.

5. Defendant was served with the Summons and Complaint on November 26, 2007.

6. By letter filed November 28, 2007, Defendant requested that the DHC appoint him an attorney to represent him before the DHC.

7. On December 14, 2007, Plaintiff filed a Motion for Stay, opposing Defendant's request to have counsel appointed and moving for the DHC action to be stayed until Defendant was released from prison.

8. By order entered on January 14, 2008, the DHC denied Defendant's request for appointment of counsel and stayed the proceedings. The order contained the following provisions and requirements:

- a. That Defendant notify the Clerk of the DHC of his release date from prison when known and no later than 30 days prior to such release.
- b. That Defendant notify the Clerk of the DHC of a correct mailing and physical address within 20 days of his release from prison.
- c. That the time for Defendant to file an answer to the complaint in this case was extended, and his answer due 45 days after his release from prison.

9. The January 14, 2008 order was sent by the Clerk of the DHC to Defendant at his then-current address.

10. Defendant was released from prison on October 12, 2019.

11. Defendant did not notify the Clerk of his release date from prison or provide a correct mailing and physical address as required by the January 14, 2008 DHC orders.

12. Pursuant to the January 14, 2008 DHC order, Defendant's answer was due 45 days after his release from prison, which was November 26, 2019.

13. Defendant did not file an answer or any other responsive pleading to the complaint.

14. The Clerk of the DHC entered the default of Defendant on December 11, 2019.

15. Plaintiff filed a Motion for Order of Discipline on January 6, 2020 and served the motion on that date by depositing a copy in the U.S. Mail in a postage prepaid envelope

addressed to Defendant's address of record with the State Bar and to an address listed on the Florida Department of Corrections website as Defendant's "Stated Residence Upon Release."

16. Defendant pled guilty to three counts of promoting the sexual performance of a child, one count of lewd or lascivious exhibition, and one count of solicitation of a child over the internet in violation of Florida Statutes §§ 827.071(3), 800.04(7)(b)(1), and 847.0135(3) in the case of State of Florida v. Bradley Robert Lamb, Circuit Court, Fourth Judicial Circuit, in and for Duval County, Florida, Division CR-C, case number 16 2006 CF 7301 AXXX MA. Defendant was convicted of these crimes and was sentenced to incarceration for fifteen years on September 18, 2007.

17. The crimes of which Defendant was convicted are criminal offenses showing professional unfitness as defined in 27 N.C. Admin. Code 1B.0103(17).

Based on the foregoing Findings of Fact, the Hearing Panel enters the following:

CONCLUSIONS OF LAW

1. All the parties are properly before the Hearing Panel and the Panel has jurisdiction over Defendant, Bradley R. Lamb, and the subject matter.

2. Defendant's conduct, as set forth in the Findings of Fact above, constitutes grounds for discipline as follows:

- a. Pursuant to N.C. Gen. Stat. § 84-28(b)(1), for his conviction of three counts of promoting the sexual performance of a child, one count of lewd or lascivious exhibition, and one count of solicitation of a child over the internet in violation of Florida Statutes §§ 827.071(3), 800.04(7)(b)(1), and 847.0135(3), criminal offenses showing professional unfitness; and
- b. Pursuant to N.C. Gen. Stat. § 84-28(b)(2), for engaging in conduct in violation of the Rules of Professional Conduct in effect at the time of his actions as follows: By engaging in the criminal offenses for which he was convicted, Defendant committed criminal acts that reflect adversely upon his honesty, trustworthiness or fitness as a lawyer in violation of Revised Rule 8.4(b).

3. 27 N.C. Admin. Code 1B.0115(g)(2) provides that, upon entry of Defendant's default by the Clerk, counsel for the State Bar may move for an order of discipline. This section states, "Upon such motion, the hearing panel shall enter an order making findings of fact and conclusions of law as established by the facts deemed admitted by the default. If such facts provide sufficient basis, the hearing panel shall enter an order imposing the discipline deemed to be appropriate."

4. The facts of this case are established not only by Defendant's default but also by his criminal conviction. 27 N.C. Admin. Code 1B.0119(a) states:

A certified copy of the conviction of an attorney for any crime or a certified copy of a judgment entered against an attorney where a plea of guilty, nolo contendere, or no contest has been accepted by a court will be conclusive evidence of guilt of that crime in any disciplinary proceeding instituted against the member. For purposes of any disciplinary proceeding against a member, such conviction or judgment shall conclusively establish all elements of the criminal offense and shall conclusively establish all facts set out in the document charging the member with the criminal offense.

5. The facts established through the default, by Defendant's conviction, and by the documents on file with the DHC provide sufficient basis for the Hearing Panel to enter an order of discipline in this case.

Based on the foregoing Findings of Fact and Conclusions of Law, the pleadings, the facts established through the default, and the facts established by Defendant's conviction, the Hearing Panel hereby finds by clear, cogent and convincing evidence the following additional

FINDINGS OF FACT REGARDING DISCIPLINE

1. The findings of fact in paragraphs 1 – 15 of the above Findings of Fact section are reincorporated as if set forth herein.

2. The following are the charges to which Defendant pled guilty and of which he was convicted:

COUNT 1

BRADLEY ROBERT LAMB on December 5, 2005, in the County of Duval and the State of Florida, did knowingly and unlawfully promote a sexual performance by child when, knowing the character and content thereof, he produced, directed, or promoted any photograph, motion picture, exhibition, show, representation, or other presentation, to wit: images transmitted through YAHOO! on December 5, 2005, which included sexual conduct by a child less than 18 years of age, contrary to the provisions of Section 827.071(3), Florida Statutes.

COUNT 3

BRADLEY ROBERT LAMB on December 6, 2005, in the County of Duval and the State of Florida, did knowingly and unlawfully promote a sexual performance by child when, knowing the character and content thereof, he produced, directed, or promoted any photograph, motion picture, exhibition, show, representation, or other presentation, to wit: images transmitted through YAHOO! on December 6, 2005, which included sexual conduct by a child less than 18 years of age, contrary to the provisions of Section 827.071(3), Florida Statutes.

COUNT 4

BRADLEY ROBERT LAMB on December 8, 2005, in the County of Duval and the State of Florida, did knowingly and unlawfully promote a sexual performance by child when, knowing the character and content thereof, he produced, directed, or promoted any photograph, motion picture, exhibition, show, representation, or other presentation, to wit: images transmitted through YAHOO! on December 8, 2005, which included sexual conduct by a child less than 18 years of age, contrary to the provisions of Section 827.071(3), Florida Statutes.

COUNT 23

BRADLEY ROBERT LAMB, a person 18 years of age or older, on March 27, 2006, in the County of Duval and the State of Florida, did intentionally masturbate live over a computer on-line service, Internet service, or local bulletin board service and at that time knew or should have known or had reason to believe that the transmission was viewed on a computer or television monitor by a person in the State of Florida who was less than 16 years of age, contrary to the provisions of Section 800.04(7)(b)1, Florida Statutes.

COUNT 24

BRADLEY ROBERT LAMB on March 27, 2006, in the County of Duval and the State of Florida, did knowingly utilize a computer on-line service, Internet service, or local bulletin board service to seduce, solicit, lure, or entice, or attempt to seduce, solicit, lure, or entice a child or another person believed by the person to be a child, to commit any illegal act described in chapter 794, relating to sexual to sexual [sic] battery; chapter 800, relating to lewdness and indecent exposure; or chapter 827, relating to child abuse, contrary to the provisions of Section 847.0135(3), Florida Statutes.

3. Each of the criminal offenses for which Defendant was convicted is a felony offense.
4. On December 5, 2005, Defendant transmitted via YAHOO! images that included sexual conduct by a child less than 18 years of age.
5. On December 6, 2005, Defendant transmitted via YAHOO! images that included sexual conduct by a child less than 18 years of age.
6. On December 8, 2005, Defendant transmitted via YAHOO! images that included sexual conduct by a child less than 18 years of age.
7. Defendant promoted sexual performance by a child when he transmitted images that included sexual conduct by a child via YAHOO!

8. In December 2005, Defendant had possession of images commonly referred to as child pornography that he transmitted via YAHOO!

9. By possessing and utilizing child pornography, Defendant participated in the existence of a demand for child pornography and promoted sexual performance by a child, which caused significant harm or potential significant harm to members of the public, to wit: children who were or would be victimized to produce child pornography.

10. On March 27, 2006, Defendant intentionally masturbated live over a computer on-line service, internet service, or local bulletin board service and at that time knew, should have known, or had reason to believe he was being viewed on a computer or television monitor by a person in the State of Florida who was less than 16 years of age.

11. By masturbating in a manner that he believed would be viewed by a person less than 16 years of age, Defendant caused significant harm or potential significant harm to members of the public and to a child by exposing a minor, or a person he had reason to believe was a minor, to sexual activity that society, through its laws, has established is not suitable for minors.

12. On March 27, 2006, Defendant seduced, solicited, or enticed, or attempted to seduce, solicit, or entice, a child or a person he believed to be a child to commit an illegal act involving sexual activity or conduct.

13. By seducing, soliciting, or enticing a person he believed to be a child to engage in sexual activity or conduct, or attempting to do so, Defendant caused significant harm or potential significant harm to members of the public and to a child by attempting to arrange for a child, or a person he believed to be a child, to engage in sexual activity or conduct which society, through its laws, has established is not suitable for minors.

14. Defendant failed to comply with the January 14, 2008 DHC order by failing to notify the Clerk of the DHC of his release date when known and no later than 30 days prior to release from prison.

15. Defendant failed to comply with the January 14, 2008 DHC order by failing to provide the Clerk of the DHC with a correct mailing and physical address within 20 days of his release from prison.

16. Defendant failed to comply with the 14 January 2008 DHC order and his obligation under 27 N.C. Admin. Code 1B.0115(c) by failing to file an answer to the complaint in this case.

17. By failing to comply with the DHC's order and with his obligations under the rules applicable to DHC proceedings, Defendant caused significant harm or potential significant harm to the profession by failing to participate in the profession's self-regulation. Defendant's failure to participate in the profession's self-regulation impedes effective self-regulation and jeopardizes the privilege of the profession to remain self-regulating.

18. Defendant placed his own personal interests above the welfare of children.

19. By the conduct for which he was convicted, Defendant has shown himself to be untrustworthy.

20. Defendant's repeated commission of criminal acts reflecting adversely on his honesty, trustworthiness, or fitness as a lawyer caused potential significant harm to the legal profession, in that criminal conduct tends to bring the legal profession into disrepute.

21. Defendant has no prior record of attorney disciplinary offenses.

22. The Hearing Panel finds by clear, cogent, and convincing evidence the facts contained in the conclusions set out below of the applicable factors regarding discipline from those listed in 27 N.C. Admin. Code 1B.0116(f).

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

CONCLUSIONS REGARDING DISCIPLINE

1. The Hearing Panel carefully considered all of the different forms of discipline available to it.

2. The Hearing Panel considered all of the factors enumerated in 27 N.C. Admin. Code 1B.0116(f).

3. The Hearing Panel concludes that the following factors from 27 N.C. Admin. Code 1B.0116(f)(1), which are factors to be considered in imposing suspension or disbarment, are present in this case:

- a. Factor (A), Intent of Defendant to cause the resulting harm or potential harm
- b. Factor (B), Intent of Defendant to commit acts where the harm or potential harm is foreseeable
- c. Factor (C), Circumstances reflecting Defendant's lack of trustworthiness or integrity
- d. Factor (E), Negative impact of Defendant's actions on public's perception of the profession
- e. Factor (H), Effect of Defendant's conduct on third parties

4. The Hearing Panel concludes the following factor from 27 N.C. Admin. Code 1B.0116(f)(2), which are factors warranting consideration of disbarment, is present in this case:

- a. Factor (D), Commission of a felony

5. The Hearing Panel concludes that the following factors from 27 N.C. Admin. Code 1B.0116(f)(3), which are to be considered in all cases, are present in this case:

- a. Factor (A), Absence of prior disciplinary offenses
- b. Factor (C), Selfish motive
- c. Factor (F), A pattern of misconduct
- d. Factor (G), Multiple offenses
- e. Factor (M), Bad faith obstruction of the disciplinary proceedings by intentionally failing to comply with rules or orders of the disciplinary agency
- f. Factor (R), Vulnerability of victims
- g. Factor (S), Degree of experience in the practice of law;
- h. Factor (U) Imposition of other penalties or sanctions

6. The Hearing Panel considered all of the disciplinary options available to it and determined that disbarment is the only sanction that can adequately serve to protect the public from future transgressions of Defendant, given the vulnerability of the victims and his intended victim – the child/children exploited to produce the child pornography Defendant possessed and transmitted via YAHOO! and the person he believed was a child who he seduced, solicited, or enticed or attempted to seduce, solicit or entice to commit an illegal act involving sexual activity or conduct. It is imperative that Defendant prove that he has rehabilitated and no longer poses a threat to members of the public, and specifically minors, before he can be entrusted to be a practicing attorney with the potential to represent minors. Under 27 N.C. Admin. Code 1B.0129(a), in order to have his license restored, a disbarred attorney must prove by clear, cogent, and convincing evidence that he has reformed and possesses the moral qualifications for admission to practice law in this state taking into account the gravity of the misconduct which resulted in the order of disbarment, and that permitting him to resume the practice of law will not be detrimental to the integrity and standing of the bar, to the administration of justice, or to the public interest, taking into account the gravity of the misconduct which resulted in the order of disbarment. Only disbarment, with these prerequisites to reinstatement, can adequately serve to protect the public from future transgressions of Defendant.

7. The Hearing Panel has further determined that discipline short of disbarment would not adequately protect the public because lesser discipline would fail to acknowledge the seriousness of the offenses Defendant committed and would send the wrong message to attorneys and the public regarding the conduct expected of members of the Bar of this State.

Based on the foregoing Findings of Fact, Conclusions of Law, and additional Findings of Fact and Conclusions of Law Regarding Discipline, the Hearing Panel hereby enters the following

ORDER OF DISCIPLINE

1. Defendant, Bradley R. Lamb, is hereby DISBARRED from the practice of law. The disbarment is effective 30 days following service of this order pursuant to 27 N.C. Admin. Code 1B.0128(c). The Clerk of the DHC shall use Defendant's address of record with the North Carolina State Bar and the address listed on the Florida Department of Corrections website as the "Stated Residence Upon Release" for purposes of serving this order pursuant to 27 N.C. Admin. Code 1B.0116(g).

2. Defendant shall surrender his law license and bar card to the Clerk of the DHC no later than 30 days from service of this order upon him.

3. Defendant shall pay the administrative fees and costs of this proceeding as assessed by the Secretary of the North Carolina State Bar. Defendant must pay the fees and costs within 30 days of service upon him of the statement of fees and costs by the Secretary. The procedures of 27 N.C. Admin. Code 1B.0116(g) will be utilized for service of the statement of fees and costs, and the Clerk of the DHC shall use Defendant's address of record and the address listed on the Florida Department of Corrections website as the "Stated Residence Upon Release" for purposes of serving the statement of fees and costs.

4. Defendant shall comply with all provisions of 27 N.C. Admin. Code 1B.0128 as set out therein.

Signed by the Chair with the consent of the other Hearing Panel members, this the 19
day of February, 2020.


Donald C. Prentiss, Chair
Disciplinary Hearing Panel