

NORTH CAROLINA
WAKE COUNTY

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
22G1343

IN THE MATTER OF)
)
DAVID A. PEREZ,) CENSURE
ATTORNEY AT LAW)

On July 20, 2023, 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.

After a district court judge entered an ex parte order temporarily granting child custody to your ex-wife, you went to his courtroom during a criminal session of court in which you did not have a matter scheduled and confronted him at the bench. Your conversation with the court was intemperate and inappropriate. You failed to accede gracefully to the court's ruling. As a result of the confrontation, your security credentials at the courthouse were revoked.

At the trial on the motion to modify child custody, in front of a different district court judge, you represented yourself. You repeatedly interrupted those proceedings, talked over the judge, and continued to argue with the judge after she sustained counsel's objection. In a motion to disqualify

the trial court, a third judge found that you had filed a baseless motion in which you made multiple factual errors, and that you could have been held in direct criminal contempt by the trial court based on your frequent interruptions to those proceedings. During the hearing on the motion to disqualify, you interrupted the third judge, though not with the frequency you interrupted the trial judge.

You filed a grievance against the trial judge with the Judicial Standards Commission (“JSC”) during the pendency of the motion to modify child custody, and made frequent mention of your grievance with JSC in the course of that litigation. You erroneously referred to an upcoming JSC meeting to consider your grievance as a “hearing” despite JSC counsel previously explaining to you that no such hearing was taking place.

In deciding to issue a Censure, the Grievance Committee considered that the imposition of lesser discipline would fail to acknowledge the seriousness of the misconduct and would send the wrong message to members of the Bar and the public regarding the conduct expected of members of the Bar. It also considered your recognition of the wrongful nature of your misconduct, including your apologies to the court which heard the *ex parte* motion for temporary custody as well as the trial court, including your statement that you “crossed the line as to the professionalism that is incumbent upon me to show the Court.” The Grievance Committee also recognized your thirty-three years as a member of the State Bar without any discipline, and the significant personal or emotional problems contributing to your misconduct.

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 1st day of September, 2023.

A handwritten signature in black ink, reading "Kevin G. Williams". The signature is written in a cursive style and is positioned above a horizontal line.

Kevin G. Williams, Chair
Grievance Committee

KGW/lb