

STATE OF NORTH CAROLINA

WAKE COUNTY



BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
20 DHC 10

THE NORTH CAROLINA STATE BAR,
Plaintiff

v.

ADA L. MASON, Attorney,

Defendant

CONSENT ORDER

THIS MATTER came before a hearing panel of the Disciplinary Hearing Commission composed of Donald C. Prentiss, Chair, Stephanie N. Davis, and Tyler B. Morris. Mary D. Winstead represented Plaintiff, the North Carolina State Bar. Defendant, Ada L. Mason, was represented by Billy J. Strickland, II. Mason waives a formal hearing of this matter, and the parties agree to the findings of fact and conclusions of law recited in this consent order. The parties consent to the discipline imposed by this order. By consenting to this order, Mason knowingly, freely, and voluntarily waives her right to appeal this consent order or to challenge in any way the sufficiency of the findings.

Based upon the foregoing, and with consent of the parties, this 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, Ada L. Mason, ("Defendant") was admitted to the North Carolina State Bar in 1998, and is, and was at all times material hereto, an attorney licensed to practice in North Carolina, subject to the laws of the State of North Carolina, the Rules and Regulations of the State Bar, and the Rules of Professional Conduct.
3. On October 9, 2013, the Superior Court suspended Mason's license to practice law.
4. Prior to October 9, 2013, Mason was engaged in the practice of law in the State of North Carolina and maintained a law office in Goldsboro, Wayne County, North Carolina.

5. On or about February 25, 2013, Mason committed and was charged with the felony of possession of a controlled substance in a jail and the misdemeanor of possession of drug paraphernalia, Wayne County file number 13 CR 50895 and the misdemeanor of breaking or entering, Wayne County file number 13 CR 50894.

6. On or about December 12, 2016, Mason pled guilty pursuant to N.C. Gen. Stat. § 90-96 to felony possession of a Schedule II controlled substance, methamphetamine, (16 CRS 001410) felony possession of a controlled substance in a jail (13 CRS 50895), and misdemeanor possession of drug paraphernalia (13 CRS 50895)¹; the breaking or entering charge was dismissed.

7. The crimes to which Defendant pled guilty are criminal offenses showing professional unfitness as defined in 27 N.C. Admin. Code 1B.0103(17).

Based upon the consent of the parties and the foregoing stipulated Findings of Fact, the Hearing Panel enters the following:

CONCLUSIONS OF LAW

1. All parties are properly before the Hearing Panel and the Panel has jurisdiction over Defendant and the subject matter of this proceeding.

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

(a) By pleading guilty to felony possession of a Schedule II controlled substance, methamphetamine (16 CRS 001410), felony possession of a controlled substance in a jail (15 CRS 50895), and misdemeanor possession of drug paraphernalia (15 CRS 50895), Defendant has tendered a plea of guilty to a criminal offense showing professional unfitness in violation of N.C. Gen. Stat. § 84-28(b)(1).

(b): By possessing a Schedule II controlled substance in violation of N.C. Gen. Stat. § 90-95, possessing drug paraphernalia in violation of N.C. Gen. Stat. § 90-113.22, and possessing a controlled substance in jail in violation of N.C. Gen. Stat. § 90-95(e)(9), Defendant engaged in criminal acts that reflect adversely on her honesty, trustworthiness, or fitness as a lawyer in violation of Rule of Professional Conduct 8.4(b) and is subject to discipline pursuant to N.C. Gen. Stat. § 84-28(b)(2).

Based upon the evidence, the Hearing Panel also finds by clear, cogent, and convincing evidence the following:

FINDINGS OF FACT REGARDING DISCIPLINE

¹ Although the Conditional Discharge reflects that the file no. for the charges of felony possession of a controlled substance in a jail and misdemeanor possession of drug paraphernalia was 15 CRS 50895, this appears to be a typographical error.

1. Defendant was licensed to practice law in North Carolina in 1998.
2. The public expects that attorneys will abide by the law. Defendant disregarded her obligation to obey the laws of this State
3. There was local media coverage of Defendant's arrest which identified her as an attorney. Defendant's conduct potentially caused significant harm to the profession, to the public's perception of the profession, and to the administration of justice.
4. Defendant ultimately took responsibility for her actions by pleading guilty to felony possession of methamphetamine, felony possession of a controlled substance in a jail, and misdemeanor possession of drug paraphernalia.
5. Defendant was placed on supervised probation pursuant to N.C. Gen. Stat. § 90-96 for up to 18 months or longer to allow Defendant to enroll in and be accepted into a treatment program.
6. Defendant successfully complied with the terms of the § 90-96 conditional discharge. On December 12, 2017, Defendant appeared in Wayne County Superior Court at which time the charges of felony possession of methamphetamine, felony possession of a controlled substance in a jail, and misdemeanor possession of drug paraphernalia were dismissed by the Court.
7. Defendant received an Admonition in 2009 regarding her representation of one client in a traffic matter in which she failed to communicate with the client and the State Bar and charged the client an excessive fee by failing to refund the fee when the client handled the matter without Defendant's assistance.
8. Defendant has made significant efforts towards addressing her substance abuse: in March 2017, she entered the Renewal Program at Miracle Hill Ministries and successfully completed the six-month residential recovery program for substance abuse; she also completed a nine-month Ministry Training Program with Miracle Hill Ministries.
9. Defendant currently resides and is employed in South Carolina.
10. Defendant has acknowledged that her conduct violated the Rules of Professional Conduct and is remorseful for her actions.
11. Defendant was suspended from the practice of law by the Superior Court on October 9, 2013 and has not practiced law since that time.

12. On March 23, 2020, the Senior Resident Superior Court Judge for District 8-B entered an order rescinding the October 9, 2013 order and placing no further restrictions on Defendant's law license subject to the final disposition of this DHC matter.

Based upon the Findings of Fact, Conclusions of Law, and Additional Findings Regarding Discipline, the Hearing Panel also enters the following:

CONCLUSIONS REGARDING DISCIPLINE

1. The Hearing Panel has carefully considered all the different forms of discipline available to it, including admonition, reprimand, censure, suspension and disbarment.

2. The Hearing Panel has carefully considered all the factors enumerated in 27 N.C. Admin. Code 1B.0116(f)(1) of the Rules and Regulations of the North Carolina State Bar and concludes the following factors are present which warrant suspension of Defendant's license:

- (B) Intent of Defendant to commit acts where the potential harm was foreseeable;
- (E) Negative impact of Defendant's actions on the public's perception of the profession; and
- (H) Negative impact of Defendant's actions on the administration of justice.

3. The Hearing Panel has considered all the factors enumerated in 27 N.C.A.C. 1B §.0116(f)(2) of the Rules and Regulations of the North Carolina State Bar and concludes that the following disbarment factors are present:

- (D) Commission of a felony.

4. The presence of a factor under 27 N.C.A.C. 1B .0116(f)(2) requires the Hearing Panel to consider disbarment as discipline. The Hearing Panel has considered disbarment and concludes that given that Defendant's law license has been suspended by the Court for over six years, the drug-related nature of the felonious conduct at issue, her successful completion of a six-month recovery program for substance abuse, and her interim rehabilitation, disbarment is not necessary to protect the public.

5. The Hearing Panel has considered all the factors enumerated in 27 N.C.A.C. 1B §.0116(f)(3) of the Rules and Regulations of the North Carolina State Bar and concludes the following factors are applicable in this matter:

- (A) Prior disciplinary offense;
- (G) Multiple offenses;
- (I) Effect of any physical or mental disability or impairment on the conduct in question;
- (J) Interim rehabilitation;

- (K) Full and free disclosure to the hearing panel and cooperative attitude toward the proceedings;
- (P) Defendant's remorse;
- (S) Degree of experience in the practice of law; and
- (U) Imposition of other penalties or sanctions.

6. An admonition, reprimand or censure would be insufficient discipline in this case because of the gravity of the misconduct at issue and the potential harm to the profession and the public.

7. The public would be adequately protected by a stayed suspension of Defendant's license upon Defendant's compliance with conditions designed to ensure protection of the public and continued compliance with the Rules of Professional Conduct.

8. For the following reasons, this Hearing Panel finds that an order imposing discipline short of suspension of Defendant's law license would not adequately protect the public, the legal profession, or the administration of justice for the following reasons:

- (a) The factors under 27 N.C.A.C. 1B §.0116(f)(1) are of a nature that support imposition of suspension as the appropriate discipline;
- (b) Entry of an order imposing less serious 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 in this State; and,
- (c) A stayed suspension with appropriate conditions will protect the public by helping to ensure Defendant's sobriety and compliance with treatment.

Based upon the foregoing findings of fact and conclusions of law and the findings of fact and conclusion regarding discipline, and based upon the consent of the parties, the Hearing Panel enters the following:

ORDER OF DISCIPLINE

1. Defendant, Ada Mason, is hereby suspended from the practice of law for three (3) years, effective 30 days from service of this order upon Defendant.

2. Defendant's three-year suspension is ordered stayed for five (5) years as long as Defendant complies, and continues to comply, during the period of the stay, with each of the following conditions:

- (a) Should Defendant engage in the practice of law in North Carolina during the period of the stayed suspension, Defendant shall notify the State Bar Office of Counsel within thirty days of her engaging in the practice of law;

- (b) Should Defendant engage in the practice of law in North Carolina during the period of the stayed suspension, Defendant shall enter into and remain in a long-term recovery contract with the Lawyer Assistance Program ("LAP") and comply with all the terms of her contract and any treatment recommendations from LAP, at Defendant's expense. LAP shall notify the Office of Counsel if Defendant fails to participate in LAP, fails to comply with any of the terms of her long term recovery contract with LAP, or fails to comply with LAP's treatment recommendations. Defendant will sign all necessary releases or documents to allow such notification and to allow the LAP to discuss Defendant's participation and treatment in LAP with the Office of Counsel of the State Bar, and shall not revoke the release during the period of the stayed suspension;
- (c) Defendant shall not use or consume any mind or mood altering substances, including, but not limited to, alcohol or controlled substances, except to treat a legitimate medical need as prescribed by a licensed medical professional authorized to issue such a prescription. Prior to the use of any such prescribed drugs, Defendant will inform her physician of this Order and of her participation in ("LAP"), communicate the identity of her physician to the LAP Clinical Director, and have her physician consult with the LAP Clinical Director before any such medications are prescribed by his physician or used by Defendant;
- (d) Defendant shall, at her own expense, register for and comply with random drug and alcohol monitoring by FSSolutions Recovery Management Solutions ("FSS") or other monitoring service agreed to by the parties. The monitoring agreement will require the monitoring service to report to the State Bar's Office of Counsel and to the LAP Clinical Director any failure of Defendant to take or pay for the test and any positive test result. Defendant will enter into the monitoring program within thirty days of the date of this order. Defendant will sign all necessary releases or documents to allow such reporting and shall not revoke the releases during the period of the stayed suspension;
- (e) Should Defendant engage in the private practice of law in North Carolina, Defendant shall, at her own expense, arrange for an attorney approved by the Office of Counsel to serve as Defendant's practice monitor. Defendant shall meet with the practice monitor at least monthly to review all of the Defendant's pending cases. The monitor will supervise all client matters and ensure that the Defendant handles all matters in a timely fashion and that the Defendant communicates adequately with her clients. The Defendant will ensure that the practice monitor submits written quarterly reports to the Office of Counsel confirming that the meetings are occurring and that the Defendant is meeting deadlines and conferring with clients. The reports shall be received in the Office of Counsel each

January 10, April 10, July 10, and October 10 throughout the period of the stayed suspension.

- (f) Defendant shall timely submit her annual Continuing Legal Education ("CLE") report form to the CLE Department of the North Carolina State Bar each year of the stay and contemporaneously send a copy of the CLE report form to the Office of Counsel of the State Bar to document compliance. "Timely" means by the date specified by the CLE department as the date by which members must submit their annual report forms to avoid assessment of a \$75.00 late filing penalty. Defendant must ensure the Office of Counsel receives a copy of her annual CLE report form no later than 15 days after it is due to the CLE department of the State Bar each year;
- (g) Defendant shall pay all Membership dues and Client Security Fund assessments and comply with all CLE requirements on a timely basis;
- (h) Defendant shall keep her address of record with the North Carolina State Bar current, accept all certified mail from the North Carolina State Bar, and respond to all letters of notice and requests for information from the North Carolina State Bar by the deadlines stated in the communication;
- (i) Defendant shall not violate any of the Rules of Professional Conduct in effect during the period of the stay;
- (j) Defendant shall not violate any laws of the State of North Carolina, of any other state, or of the United States during the period of the stay; and
- (k) Defendant shall pay all costs and administrative fees of this proceeding as assessed by the Secretary within thirty (30) days after service of the notice of costs on her.

3. Defendant's obligations under this Order end after the applicable period of the stay provided there are no motions or show cause proceedings pending alleging lack of compliance with the conditions of the stay of the suspension. Pursuant to 27 N.C. Admin. Code 1B.0118, the DHC retains jurisdiction until all conditions of the stay of the suspension have been met. If a motion or show cause proceeding alleging lack of compliance with the conditions for the stay of the suspension is pending when the period of the stay of the suspension would otherwise have terminated, the DHC retains the jurisdiction and ability to lift the stay of the suspension and activate the remaining portion of the suspension in whole or in part if it finds that any of the conditions of the stay have not been met. The stay of the suspension and Defendant's obligation to comply with the conditions for the stay will continue until resolution of any such pending motion or show cause proceeding.

4. If the stay of the suspension is lifted and the remaining period of suspension is activated for any reason, the following conditions are placed upon Defendant's reinstatement to

active status. With any petition Defendant files for reinstatement to active practice, Defendant must demonstrate by clear, cogent, and convincing evidence that she complied with each of the following conditions:

- (a) That Defendant submitted to comprehensive evaluations by two separate psychiatrists or other mental health professionals who specialize in the treatment of substance abuse addiction, who are selected by or acceptable to the Office of Counsel of the North Carolina State Bar. Such evaluations must occur no sooner than 90 days prior to the date of the filing of the petition. Both psychiatrists/mental health professionals must have certified under oath, based on independent comprehensive evaluations of Defendant, that in their professional opinion Defendant's addiction(s) are controlled and do not pose any risk of harm to potential clients or the public and that she does not suffer from any addiction, disability, or mental, psychological, emotional, or other condition or circumstance that significantly impairs her professional judgment, performance, or competence as an attorney;
- (b) That Defendant attached to her petition the sworn certifications from the two evaluating mental health professionals. Defendant must also attach to her petition releases or authorizations instructing the evaluating mental health professionals to discuss their evaluation of her and to release any corresponding records to the Office of Counsel of the State Bar. Defendant shall provide any additional releases or authorizations that may be necessary upon request by the Office of Counsel;
- (c) In the six months preceding the filing of the petition, Defendant has, at her own expense, registered for and complied with random drug and alcohol monitoring by FSSolutions Recovery Management Solutions ("FSS") or other monitoring service agreed to by the parties. Defendant will sign all necessary releases or documents to allow the monitoring service to report the results of all such testing to the State Bar and shall submit with her petition all such reports;
- (d) Submitted her license and membership card to the Secretary of the North Carolina State Bar no later than 30 days from the effective date of the order activating the suspension;
- € Complied with all provisions of 27 N.C. Admin. Code 1B.0128 on a timely basis;
- (f) Complied with all provisions of 27 N.C. Admin. Code 0129(b);
- (g) Not have violated any of the Rules of Professional Conduct;
- (h) Not have violated any laws of the State of North Carolina, of any other state, or of the United States; and

- (i) Paid all costs of this proceeding as assessed by the Secretary within thirty (30) days of service of the notice of costs upon her.

6. Defendant is taxed with the administrative fees and costs of this action as assessed by the Secretary, which shall be paid within thirty (30) days of service of the notice of costs upon Defendant.

Signed by the undersigned Chair with the knowledge and consent of the other members of the Hearing Panel, this is the 16 day of April, 2020.

Donald C. Prentiss

Donald C. Prentiss (Apr 16, 2020)

Donald C. Prentiss Apr 16, 2020
Chair, Hearing Panel

Agreed and consented to by:

Billy Strickland II
Billy Strickland II (Mar 27, 2020)

Billy Strickland II Mar 27, 2020
Attorney for Defendant

Ada L. Mason
Ada Mason (Mar 27, 2020)

Ada L. Mason Mar 27, 2020
Defendant

Mary D. Winstead
Mary D. Winstead Mar 27, 2020
Attorney for Plaintiff