

NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE
FILED SUPERIOR COURT DIVISION

File Number 18 CRS 57503

PITT COUNTY

2019 AUG 22 P 1:58

PITT COUNTY, C.S.C.

In The Matter Of:

BY) KW

Order of Discipline

JARRETTE PITTMAN, Assistant District
Attorney)

THIS MATTER came before the undersigned judge of the Superior Court of Pitt County pursuant to the Show Cause Order entered by the Honorable Jeffrey Foster, Resident Superior Court Judge of Judicial District 3A, on 14 December 2018, as amended by this court's order of 29 July 2019. The court conducted an evidentiary hearing on 5-7 August 2019. Respondent Jarrette Pittman appeared with counsel, Keith A. Bishop. Pursuant to Judge Foster's order, the North Carolina State Bar prosecuted this matter; Deputy Counsel Joshua Walthall and Deputy Counsel Cameron Lee appeared on behalf of the State Bar.

Upon the commencement of the hearing, the State Bar announced that it would not proceed as to Paragraph 23(d) of the Amended Order to Show Cause, which alleged that Pittman had violated Rule 3.3(d) of the North Carolina Rules of Professional Conduct.

Based on the record and the evidence received at the hearing, the Court makes, by clear, cogent, and convincing evidence, the following:

FINDINGS OF FACT

1. On Friday, 7 December 2018, the last day of a week-long criminal administrative session of Pitt County Superior Court over which Judge Jeffrey Foster presided, Johnnie Lee Finch, Jr. ("Finch"), an attorney licensed to practice law in North Carolina, and Jarrette Pittman ("Pittman"), an attorney licensed to practice law in North Carolina and, at that time, a sworn assistant district attorney for Judicial District 3A, signed an Order for Modification of Bond of the defendant Israel Christian Williams ("Williams") in case file number 18 CR 57503. As indicated by the "CR" file number, this case was pending in the district court division.

2. The Order for Modification of Bond was presented to the superior court on a form used in Pitt County Superior Court for bond modifications. This form is on green paper, to help differentiate it from a district court Order for Modification of Bond, which is on pink paper.

A TRUE COPY
CLERK OF SUPERIOR COURT
PITT COUNTY
BY Kathryn Watson
Assistant, Deputy, Clerk Superior Court

3. The charges listed at the top of the Order for Modification of Bond in the Williams matter were “AWDW” (an abbreviation commonly used for assault with a deadly weapon) and assault on a female. Both of these charges are misdemeanors. Williams was in fact charged with assault with a deadly weapon inflicting serious injury, a Class E felony, and assault on a female, and these charges were in fact pending in the district court division at the time.

4. The Order for Modification of Bond reduced Williams’ bond from \$25,000 secured to \$20,000 unsecured under certain conditions, one of which was that the defendant was not to “assault, threaten, harass, or be on the premises of or workplace of, or have any contact with Brenda Williams.”

5. The Order for Modification of Bond was dated 7 December 2018.

6. Based upon the information in the Order for Modification of Bond, the consent of the assistant district attorney, and the representations of Finch and Pittman through their signatures on the form, Judge Foster signed the modification.

7. The Order for Modification of Bond signed by the court was not filed on 7 December 2018.

8. On 11 December 2018, another Order for Modification of Bond form, prepared on pink paper but listing the same file number (18 CR 57503), was presented to a Pitt County district court judge for signature. That form correctly listed the pending charges against the defendant as “AWDW Serious Injury, Assault on a Female.” This order reduced Williams’ bond from \$25,000 secured to \$25,000 unsecured. It listed the same prosecuting witness.

9. The 11 December 2018 Order for Modification of Bond was again signed by Finch and Pittman.

10. Pittman and Finch, as evidenced by their signatures on the 11 December 2018 Order for Modification of Bond, which listed the correct charges and was on the correct form, knew on that date that they had made misstatements of material fact or law to the superior court in the prior 7 December 2018 Order for Modification of Bond.

11. Pittman and Finch took no steps to correct the misstatements of material fact or law previously made to the Court in the prior 7 December 2018 Order for Modification of Bond.

12. The district court judge to whom the 11 December 2018 Order for Modification of Bond was presented did not sign that Order.

13. On 12 December 2018, Finch or his legal assistant filed the 7 December 2018 bond modification order signed by Judge Foster, resulting in Williams’ release from custody.

14. On Friday, 14 December 2018, Judge Foster learned of Williams' release under the circumstances described above, and immediately entered an order vacating the bond modification order signed on 7 December 2018. Judge Foster also issued an order for Williams' arrest pursuant to the court's authority under N.C. Gen. Stat. 15A-305(b)(5). This order reinstated the original terms and conditions of Williams' bond.

15. In that order, the court further ordered Pittman and Finch to appear in superior court and show cause why they should not be disciplined for engaging in professional misconduct. The court appointed the North Carolina State Bar to prosecute this matter.

16. Judge Foster, who had signed the 7 December 2018 Order for Modification of Bond and entered the 14 December 2018 Order to Show Cause, recused himself from further action in this matter. The Administrative Office of the Courts thereafter commissioned the undersigned to preside over this disciplinary action.

17. On 29 July 2019, the court entered the Amended Order to Show Cause in this case.

18. On 5 August 2019, prior to the commencement of the hearing against both Pittman and Finch, the court approved a private resolution of the disciplinary action against Finch, noting his remorse, cooperation with the State Bar's investigation, and acknowledgment of the wrongful nature of his conduct. Thus, this disciplinary hearing proceeded only as to Pittman.

Based upon the foregoing findings of fact, the Court reached the following:

CONCLUSIONS OF LAW

1. Attorneys, as officers of the court, are not expected to be perfect, but are expected to correct misstatements of material fact or law previously made to the court when they learn of such misstatements, even those made unintentionally.

2. The administration of justice demands that attorneys be accurate, candid, forthright, and honest with the court.

3. The administration of justice is prejudiced when attorneys knowingly fail to correct misstatements of material fact or law previously made to the court.

4. Attorneys make representations to the Court both by the writings they submit and the oral statements they make.

5. The errors in the 7 December 2018 Order for Modification of Bond regarding the charges against the defendant Williams and the trial court division in which the charges were pending constituted misstatements of material facts.

6. Pittman's conduct, as set out in the Findings of Fact above, constitutes grounds for discipline pursuant to N.C. Gen. Stat. 84-28(c)(5) in that Pittman violated the Rules of Professional Conduct in effect at the time of the conduct, as follows:

- (a) By knowingly failing to correct the misstatements of material facts Pittman made to the Court in the 7 December 2018 Order for Modification of Bond, he violated Rule 3.3(a)(1), which provides that a "lawyer shall not knowingly make a false statement of material fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer," and
- (b) By failing to correct these misstatements of material facts, Pittman violated Rule 8.4(d), which provides that it "is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice."

7. Judicial authority to discipline attorneys is well-established in North Carolina common law and "is not dependent upon statutory authority. It arises because of a court's inherent authority to take disciplinary action against attorneys licensed before it; an authority which extends even to matters which are not pending in the particular court exercising the authority. This power is based upon the relationship of the attorney to the court and the authority which the court has over its own officers to prevent them from, or punish them for, acts of dishonesty or impropriety calculated to bring contempt upon the administration of justice." *In re NW Bonding Co., Inc.*, 16 N.C. App. 272, 275, 192 S.E.2d 33, 35 (1972).

Based upon the foregoing Findings of Fact and Conclusions of Law, and the evidence presented at the hearing in this matter, the Court hereby finds by clear, cogent, and convincing evidence the following:

ADDITIONAL FINDINGS OF FACT REGARDING DISCIPLINE

1. Prior to this action, Pittman had not been previously disciplined by the State Bar or any other tribunal or regulatory agency.
2. Pittman expressed genuine remorse for his conduct during this hearing.
3. Pittman's misconduct was not the result of any dishonest, selfish, or improper motive.
4. Pittman did not derive any personal or professional benefit from his misconduct.
5. Pittman enjoys a good personal and professional reputation among his peers and colleagues, and is regarded as fair, honest, and diligent.
6. Pittman is active in community and civic affairs.

7. Pittman's violations of the Rules of Professional Conduct, while not merely technical, were isolated and unintentional, and are not likely to be repeated.

Based upon the Findings of Fact, Conclusions of Law, and Additional Findings of Fact Regarding Discipline, the Court hereby makes the following:

CONCLUSIONS REGARDING DISCIPLINE

1. The court has considered imposing various forms of discipline within its broad discretion to discipline attorneys under its inherent authority.

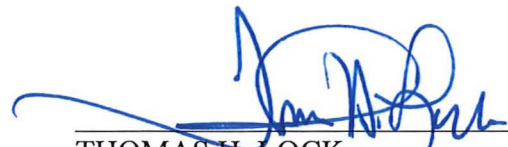
2. The court has considered dismissing this action without issuing discipline to Pittman, but has concluded that dismissal would fail to acknowledge the seriousness of the violations committed by Pittman and would send the wrong message to attorneys and the public regarding the conduct expected of members of the Bar.

3. Nonetheless, in light of the aforementioned mitigating factors, the Court does not believe that Pittman's misconduct merits any discipline more serious than an Admonition.

Based upon the foregoing Findings of Fact, Conclusions of Law, and the Additional Findings of Fact and Conclusions of Law Regarding Discipline, it is ORDERED that:

1. Jarrette Pittman is expressly ADMONISHED that his misconduct constituted violations of Rules 3.3(a)(1) and 8.4(d) of the Rules of Professional Conduct, and is advised that such misconduct may be the basis for more serious discipline if continued or repeated;
2. Jarrette Pittman shall notify the Secretary of the State Bar in writing of this disciplinary order within 30 days of its service upon him;
3. The State Bar's motion for the imposition of its costs in the matter against Pittman is DENIED; and
4. The alleged violation of Rule 3.3(d) of the Rules of Professional Conduct is dismissed.

This, the 16th day of August 2019.


THOMAS H. LOCK
Superior Court Judge