



STATE OF NORTH CAROLINA

WAKE COUNTY

BEFORE THE  
DISCIPLINARY HEARING COMMISSION  
OF THE  
NORTH CAROLINA STATE BAR  
22 DHC 3

THE NORTH CAROLINA STATE BAR,

Plaintiff

v.

BRIAN RICHARD HARWELL, Attorney

Defendant

ORDER OF  
INTERIM SUSPENSION

This matter came before the undersigned Chair of the Disciplinary Hearing Commission pursuant to 27 N.C. Admin. Code 1B.0119(b) upon Plaintiff's petition for an order of interim suspension of the license to practice law in North Carolina of Defendant, Brian Richard Harwell ("Harwell"), based upon his guilty plea to criminal offenses in the Superior Court for Iredell County, North Carolina. Harwell did not file a response to the petition. Based upon Plaintiff's petition and the attached certified copies of Harwell's guilty plea and judgment, the undersigned hereby makes the following:

#### FINDINGS OF FACT

1. Brian R. Harwell was licensed to practice law in North Carolina on 23 March 2002 and is and was at all times referred to herein, an attorney at law, subject to the rules, regulations and Rules of Professional Conduct of the North Carolina State Bar and the laws of North Carolina.

2. Harwell's address of record with the North Carolina State Bar is: 283 North Main Street, Mooresville, NC 28115-2811.

3. On 9 August 2021, Harwell entered a plea of guilty in the Superior Court for Iredell County, North Carolina to the following:

- a. Felony Possession of Methamphetamine, in violation of N.C. Gen. Stat. § 90-95(a)(3);
- b. Misdemeanor Harboring a Fugitive, in violation of N.C. Gen. Stat. § 14-267; and
- c. Misdemeanor Resisting Public Officer, in violation of N.C. Gen. Stat. § 14-223.

4. Harwell's conduct underlying the plea involved making one or more false statements to police officers regarding a client's whereabouts when the officers arrived at Harwell's home seeking to serve a warrant for that client's arrest. Harwell had provided that client a home, medical care, and transportation, and that client had provided Harwell methamphetamine.

5. The State Bar's Petition for Order of Interim Suspension was properly filed with the clerk of the commission. A certified copy of Harwell's guilty plea and judgment entered in the Iredell County case were attached to the State Bar's petition.

6. Harwell was served by certified mail with the Petition for Order of Interim Suspension, including the attached copies of the guilty plea and the judgment, on 31 January 2022.

7. More than ten days have passed since the petition was served on Harwell.

8. Harwell has not filed a response to the petition.

9. Interim suspension is warranted.

10. Harwell's conviction tends to harm or potentially harm the administration of justice and tends to impact the public's perception of the profession given that it is a lawyer's duty to uphold the law and the public's expectation that he or she will do so. Additionally, by involving a client in his illegal conduct, Harwell risked causing harm to that client.

Based upon the foregoing Findings of Fact, the undersigned makes the following:

#### CONCLUSIONS OF LAW

1. All parties are properly before the Chair of the Disciplinary Hearing Commission and the Chair has jurisdiction over Harwell and the subject matter of this proceeding.

2. Pursuant to 27 N.C. Admin. Code 1B.0119(b), an attorney who pleads guilty to a criminal offense showing professional unfitness in any state or federal court may be suspended on an interim basis. The Chair of the Disciplinary Hearing Commission will determine whether the criminal offense is one showing professional unfitness and whether, in the Chair's discretion, interim suspension is warranted.

3. Pursuant to 27 N.C. Admin. Code 1B.0115(l)(4), any prehearing motion may be decided on the basis of the parties' written submissions.

4. As defined in 27 N.C. Admin. Code 1B.0103(17), a "criminal offense showing professional unfitness" occurs upon "the commission of . . . any felony or any crime that involves . . . misrepresentation, deceit . . ."

5. The criminal offenses to which Harwell pled guilty are criminal offenses showing professional unfitness as defined in 27 N.C. Admin. Code 1B.0103(17) and qualify as a proper basis for entry of an order for interim suspension.

6. Based on the nature of Harwell's criminal offenses, the facts established by Harwell's guilty plea, and the harm or potential harm to the administration of justice, to the public's perception of the profession, and to a client, entry of an order of interim suspension is warranted.

Based upon the foregoing Findings of Fact and Conclusions of Law, the undersigned Chair of the Disciplinary Hearing Commission hereby GRANTS Plaintiff's Petition for Order of Interim Suspension and enters the following:

ORDER

1. The license to practice law in the State of North Carolina of Defendant, Brian R. Harwell is hereby SUSPENDED until the conclusion of all disciplinary proceedings against Harwell relating to his pleas of guilty to criminal offenses showing professional unfitness, including felony possession of methamphetamine, misdemeanor harboring a fugitive, and misdemeanor resisting public officer, in the Superior Court of Iredell County, North Carolina and the conduct underlying such convictions.

2. Defendant shall comply with the provisions of 27 N.C. Admin. Code 1B.0128.

This the 17 day of February, 2022.

  
Donald C. Prentiss, Chair  
Disciplinary Hearing Commission