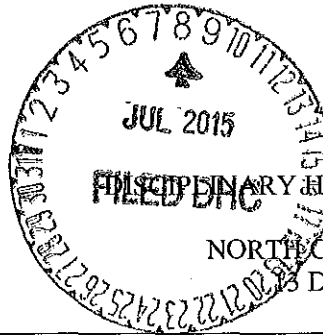


STATE OF NORTH CAROLINA
WAKE COUNTY



BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
DHC 20 & 15 BSR 3

IN THE MATTER OF THE PETITION
FOR STAY OF SUSPENSION OF:

ROBERT E. GRIFFIN,
Petitioner

ORDER DENYING
PETITION FOR STAY

THIS MATTER was heard on 23 June 2015 by a Hearing Panel of the Disciplinary Hearing Commission composed of Joshua W. Willey, Jr., Chair, Donald C. Prentiss and Michael S. Edwards upon Petitioner Robert E. Griffin's Petition for a stay of the remaining period of his suspension. The North Carolina State Bar was represented by Jennifer A. Porter. Petitioner appeared *pro se*.

At the close of Petitioner's evidence, the State Bar made a motion to dismiss the Petition pursuant to Rule 41(b) of the North Carolina Rules of Professional Conduct on the grounds that Griffin failed to establish by clear, cogent and convincing evidence that he had complied with the requirements in the Order of Discipline and Rule .0125(b)(3) for a stay, and thereby had shown no right to the relief sought. For the reasons stated herein, that motion was granted and, pursuant to Rule 41(b), the Hearing Panel rendered judgment on the merits against Petitioner, denying his Petition for Stay.

Based upon the record and the evidence presented, the Hearing Panel makes the following:

FINDINGS OF FACT

1. On August 22, 2014, the Disciplinary Hearing Commission (DHC) entered a consent Order of Discipline in the case of The North Carolina State Bar v. Robert E. Griffin, 13 DHC 20.
2. Defendant was served with the Order of Discipline on August 26, 2014.
3. Pursuant to 27 N.C. Admin. Code 1B § .0124(c), the effective date of the Order of Discipline, and accordingly the discipline imposed thereby, was September 25, 2014, 30 days after service of the Order of Discipline upon Defendant.
4. By and through the Order of Discipline, the DHC suspended Defendant for three years. The Order of Discipline provided that Defendant could apply for a stay of the remaining period of suspension after serving six months of the active suspension.

5. As of March 25, 2015, Defendant had served six months of the active suspension. On April 8, 2015, Defendant filed a petition for reinstatement and for a stay of the remaining period of suspension.

6. To be eligible for a stay of the remaining period of suspension, Griffin had the burden of establishing by clear, cogent, and convincing evidence: (a) each of the reinstatement requirements set forth in Rule .0125(b)(3); and (b) that he complied with the other conditions set forth in the Order of Discipline.

7. Among the reinstatement requirements set forth in Rule .0125(b)(3) is that the petitioner must prove compliance with 27 N.C.A.C. 1B § .0124 (“Obligations of Disbarred or Suspended Attorneys”), which governs a suspended lawyer’s wind-down of his law practice during the 30 days before the suspension takes effect.

8. Specifically, Rule .0124 contains several requirements, including the following:

- a. A suspended attorney must promptly notify by certified mail all clients with pending matters that he has been suspended and the reasons for the suspension;
- b. A suspended attorney must properly withdraw from all pending matters and take reasonable steps to avoid foreseeable prejudice to the rights of his or her clients, including promptly delivering all file materials and property to which the clients are entitled;
- c. A suspended attorney must not transfer active client files containing confidential information or property to another attorney without prior written permission from the client;
- d. A suspended attorney must not accept any new retainer or engage as attorney for another in any new case or legal matter of any nature after entry of the suspension order.

9. Rule .0124 expressly requires that the suspended lawyer retain documentation of his compliance with these wind-down requirements.

10. Griffin’s testimony established the following:

- a. He had not provided the requisite notification to clients by certified mail;
- b. He had not promptly refunded fees to a client;
- c. He had transferred active client files to another attorney without prior written permission from the clients; and
- d. He had accepted a new retainer for a new case after entry of the suspension order in this case.

11. Among the additional requirements for a stay set out in the Order of Discipline in this case are the following:

- a. That Defendant not violate the Rules of Professional Conduct;
- b. That Defendant respond to all letters of notice and requests for information from the State Bar by the deadline stated therein;
- c. That Defendant provide an accurate three-way reconciliation of his trust account that accurately reflects the current status of funds and client funds in his trust account.

12. Griffin's testimony established the following:

- a. That he had failed to respond to the notice he received from the State Bar regarding a Petition for Resolution of Disputed Fee by the deadline set forth in the notice as required by Rule 1.5(f) of the Rules of Professional Conduct; and
- b. That the three-way reconciliation and supporting documents he provided with his Petition contained an inaccurate entry for disbursement of attorney's fees and did not accurately show the actual disbursement of funds from his trust account for attorney's fees attributed to the balance in the trust account for client Jagdeep Dutta.

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

CONCLUSIONS OF LAW

1. All parties are properly before the Disciplinary Hearing Commission and the Disciplinary Hearing Commission has jurisdiction over Petitioner, Robert E. Griffin, and the subject matter of this proceeding.


2. Griffin failed to show by clear, cogent and convincing evidence that he satisfied the necessary requirements contained in the Order of Discipline and in 27 N.C. Admin. Code, 1B § .0125 in order to be eligible for a stay of his suspension.

Based upon the foregoing Findings of Fact and Conclusions of Law, the Hearing Panel enters the following:

ORDER

It is hereby ordered that the State Bar's motion to dismiss is granted and Petitioner's Petition for Stay is DENIED.

6th Signed by the Chair with the consent of the other Hearing Panel members, this the
day of July, 2015.



Joshua W. Willey, Jr., Chair
Disciplinary Hearing Panel