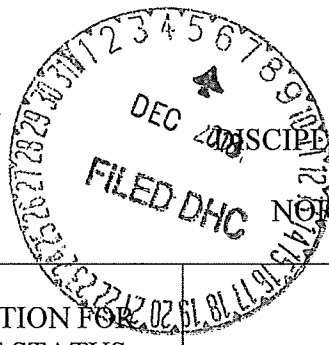


STATE OF NORTH CAROLINA

WAKE COUNTY



BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
18 RD 2

IN THE MATTER OF THE PETITION FOR
REINSTATEMENT TO ACTIVE STATUS
FROM DISABILITY INACTIVE STATUS
OF:

ELISABETH MURRAY-OBERTEIN,
PETITIONER

ORDER RESTORING MEMBER TO ACTIVE
STATUS

This matter was heard on September 26, 2018 and November 5, 2018 by a Hearing Panel of the Disciplinary Hearing Commission composed of David W. Long, Chair, Stephanie N. Davis, and Cindy L. Marrelli upon a petition of Elisabeth Murray-Oberteिन seeking to be restored to active status as a member of the North Carolina State Bar. Petitioner, Elisabeth Murray-Oberteिन, represented herself. Mary D. Winstead appeared as counsel for the North Carolina State Bar.

Based on the petition and the evidence presented at the hearing, the Hearing Panel hereby makes by clear, cogent, and convincing evidence the following:

FINDINGS OF FACT

1. Elisabeth Murray-Oberteिन ("Murray-Oberteिन") was admitted to practice law in North Carolina on March 20, 2004.
2. From 2015 until 2017, Murray-Oberteिन was engaged in the private practice of law as a sole practitioner in Hendersonville, Henderson County, North Carolina.
3. In January 2017, Murray-Oberteिन became ill and sought the assistance of the Lawyers' Assistance Program ("LAP") who recommended that she consider taking secured leave.
4. Murray-Oberteिन did take secured leave but continued to be very ill.
5. In April 2017, Murray-Oberteिन was having gastrointestinal issues, was malnourished, and could not concentrate on her cases.
6. In April 2017, Murray-Oberteिन contacted the State Bar about transferring to disability inactive status.
7. The court appointed a trustee to wind down Murray-Oberteिन's law practice in May 2017.
8. In early May, Murray-Oberteिन sought treatment at the Mayo Clinic in Jacksonville, Florida where she was hospitalized for approximately 5 days.

9. By Consent Order filed June 29, 2017, Murray-Obertein was transferred to disability inactive status pursuant to 27 N.C. Admin. Code 1B.0118(b).

10. Murray-Obertein's transfer to disability inactive status was based upon her suffering from physical and mental health conditions which significantly impaired her professional performance as an attorney.

11. Murray-Obertein did not have health insurance and did not seek medical care from the time she was placed on disability inactive until November 2017.

12. During the time she has been on disability inactive status, Murray-Obertein has rested and tried to regain her physical strength.

13. Murray-Obertein has recovered from the physical condition that caused her to be hospitalized at the Mayo Clinic.

14. In 2014, Murray-Obertein was diagnosed as being opioid dependent and was involved in a step-down program for opioids.

15. Murray-Obertein testified that she became opioid dependent after being prescribed opioids.

16. Murray-Obertein testified that she has a medical condition that prevents her from taking NSAIDS or ibuprofen for acute pain.

17. In early 2017, at her first visit at a medical practice, a physician recommended that Murray-Obertein participate in the suboxone program, a program used to treat opioid addiction.

18. Murray-Obertein was focused on her physical health issues related to her inability to eat and chose not to participate in the program. She testified that she opted to be weaned from opioids instead of being placed on another medication that she could become dependent upon.

19. During the time period surrounding her transfer to disability inactive status, Murray-Obertein was physically dependent on opioids.

20. In 2018, Murray-Obertein has continued to be prescribed opioids for various acute temporary health issues, including dental procedures, and was prescribed hydrocodone as recently as the day before this hearing after a dental procedure.

21. Murray-Obertein reported to physicians at the Mayo Clinic in 2017 that she smoked marijuana before every meal. She testified that this was to prevent vomiting.

22. According to Murray-Obertein, she was using marijuana while she was sick but no longer does so.

23. Murray-Obertein has unfinished client matters to which she must attend.

24. It is necessary for the protection of the public that Murray-Obertein: 1) obtain a mental health evaluation; 2) abide by all treatment recommendations of the evaluating mental health provider; 3) submit to random drug testing for the presence of opioids and illegal substances; 4) take a Law Office Management CLE course; and 4) have a practice monitor if she engages in the private practice of law.

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

CONCLUSIONS OF LAW

1. All parties are properly before the Disciplinary Hearing Commission and the Hearing Panel has jurisdiction over Petitioner, Elisabeth Murray-Obertein, and the subject matter of this proceeding.

2. Murray-Obertein is no longer disabled within the meaning of 27 N.C. Admin. Code 1B.0103(19) and is fit to resume the practice of law.

3. Pursuant to 27 N.C. Admin. Code 1B.0129(d), the hearing panel may impose reasonable conditions on a lawyer's reinstatement from disability inactive status when it concludes such conditions are necessary for the protection of the public.

4. The conditions set forth in paragraph 24 of the Findings of Fact above are reasonable and necessary for the protection of the public.

5. Murray-Obertein should be transferred from disability inactive status to active status, upon the conditions set forth below.

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

ORDER

1. Within 30 days of service of this order upon her, Murray-Obertein shall complete a CLE course in Law Office Management approved by the State Bar and shall provide to the Office of Counsel proof of completion of the course within ten days of completion.

2. Once Murray-Obertein has completed the Law Office Management CLE and provided proof of completion to the Office of Counsel, Elisabeth Murray-Obertein's license to practice law in North Carolina is returned to active status provided Murray-Obertein complies with the following conditions for one year following entry of this order:

- (a) No later than February 14, 2019, Murray-Obertein shall schedule an appointment for an evaluation by a mental health provider approved in advance by the State Bar Office of Counsel ("Office of Counsel") for the purpose of determining if she has any mental or psychological impairment, addiction, personality disorder, or

- other condition or illness and shall provide the Office of Counsel with the date of the appointment;
- (b) Murray-Oberteain shall have said evaluation within 45 days after scheduling her appointment;
 - (c) Murray-Oberteain shall ensure that the evaluating mental health provider provides the Office of Counsel with a copy of the evaluator's written report within 10 days of completion of the evaluation;
 - (d) Murray-Oberteain shall comply with all treatment recommendations of the evaluating mental health provider;
 - (e) Murray-Oberteain shall ensure that the mental health provider provides quarterly written reports to the State Bar concerning Murray-Oberteain's compliance with the treatment plan, and shall affirmatively state that the provider has no concerns regarding her ability to continue practicing law. Said reports will be due January 31, 2019, April 30, 2019, July 31, 2019, and October 31, 2019;
 - (f) Within ten days of service of this order upon her, Murray-Oberteain shall execute written releases authorizing the Office of Counsel to communicate with and receive information from her mental health provider(s) and to obtain copies of records relating to her compliance with the provider(s) treatment recommendations. These releases shall not be revoked during the year following entry of this order.
 - (g) Murray-Oberteain shall contact FirstLab within ten days of service of this order upon her, and make arrangements for quarterly random drug testing for the presence of opioids and illegal substances;
 - (h) Murray-Oberteain shall ensure that FirstLab provides written reports to the Office of Counsel within five days of the date of the report;
 - (i) Murray-Oberteain shall bear the expense of all treatment, counseling and drug testing;
 - (j) If Murray-Oberteain engages in the private practice of law, she shall arrange for an active member in good standing of the North Carolina State Bar who practices in the county of her practice and is approved in advance by the Office of Counsel to serve as her practice monitor. No later than 30 days from the effective date of this order, Murray-Oberteain must supply the Office of Counsel with a letter from the approved monitoring attorney confirming his or her agreement to: (a) meet with Murray-Oberteain monthly to review her cases; (b) provide supervision to ensure that Murray-Oberteain timely and completely handles client matters; and (c) provide written quarterly reports of this supervision to the Office of Counsel on the following dates: January 1, 2019, April 1, 2019, July 1, 2019, and October 1, 2019. Murray-Oberteain will be responsible for the cost, if any, charged by the monitor for this supervision;

- (k) Murray-Obertein shall meet at least once monthly with her practice monitor, to whom she shall report the status of all current client matters. Murray-Obertein shall provide any additional information the practice monitor deems reasonably necessary to ensure that Murray-Obertein is timely handling all client matters in accord with the requirements of the Rules of Professional Conduct and the North Carolina General Rules of Practice, and is in compliance with the trust accounting rules;
- (l) Murray-Obertein shall ensure that the practice monitor timely submits to the Office of Counsel a written report by January 1, 2019, April 1, 2019, July 1, 2019, and October 1, 2019 describing his or her meetings with Murray-Obertein and opinion of whether Murray-Obertein is in compliance with the terms of this order and the Rules of Professional Conduct; and
- (m) Murray-Obertein shall cooperate fully with the State Bar regarding any outstanding matters from her private practice within the deadlines prescribed by the applicable State Bar Rules and Regulations.

3. Once Murray-Obertein provides satisfactory proof to the Office of Counsel of her completion of the Law Office Management CLE course, she may undertake to represent court appointed clients provided she is authorized to do so by the appropriate authority in the county in which she seeks to represent court appointed clients.

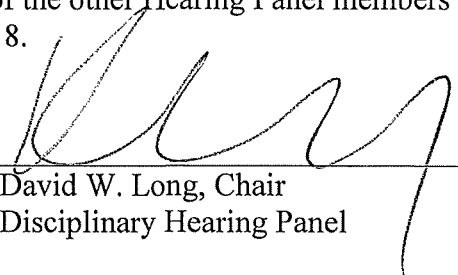
4. The State Bar is authorized to provide Murray-Obertein's mental health provider(s) with any medical records received in connection with this proceeding.

5. The Disciplinary Hearing Commission will retain jurisdiction of this matter.

6. Any grievance(s) stayed pursuant to the order transferring Murray-Obertein to disability inactive status are no longer stayed.

7. The costs of this proceeding are waived.

Signed by the Chair with the consent of the other Hearing Panel members this the 16th day of December, 2018.



David W. Long, Chair
Disciplinary Hearing Panel

