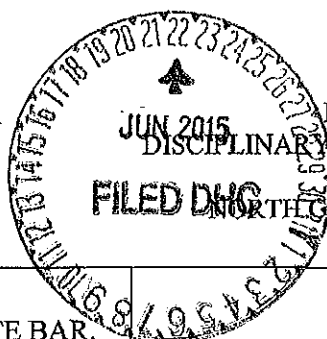


STATE OF NORTH CAROLINA

WAKE COUNTY



BEFORE THE  
HEARING COMMISSION  
OF THE  
NORTH CAROLINA STATE BAR  
12 DHC 22

THE NORTH CAROLINA STATE BAR,

Plaintiff

v.

TRACEY E. CLINE, Attorney,

Defendant

ORDER OF  
DISCIPLINE

This matter was heard by a Hearing Panel of the Disciplinary Hearing Commission duly appointed and composed of the Chair, Steven D. Michael, and panel members Ronald R. Davis and Karen B. Ray. Katherine E. Jean and Margaret Cloutier represented Plaintiff. Defendant appeared pro se. On February 17, 2015, the Hearing Panel granted partial summary judgment in favor of the State Bar concluding as a matter of law that Defendant violated Rules 3.1, 3.3(a)(1), 8.4(c), 8.4(d) and Rule 8.2(a) of the Rules of Professional Conduct as alleged in paragraphs 3, 4 and 5 on pages 9 and 10 of the State Bar's Complaint. Based on the Hearing Panel's summary judgment order, the sole issues remaining for determination are whether Defendant violated the Rules of Professional Conduct as alleged in paragraphs 1 and 2 on page 9 of the complaint and what, if any, discipline is appropriate. Those matters came on for hearing on June 4 and 5, 2015. Defendant was properly served with process and the matter came before the Hearing Panel with due notice to all parties.

### FINDINGS OF FACT

Based upon the pleadings and the evidence presented at the hearing, the Hearing Panel hereby finds by clear, cogent and convincing evidence the following:

#### FACTS ESTABLISHED AT THE HEARING

1. Plaintiff, the North Carolina 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, Tracey E. Cline, was admitted to the North Carolina State Bar on 18 August 1989, and is, and was at all times referred to herein, an attorney at law licensed to practice in North Carolina, subject to the laws of the State of North Carolina, the Rules and Regulations of the North Carolina State Bar, and the Rules of Professional Conduct.

3. During all times relevant to this complaint, Cline was actively engaged in the practice of law in the State of North Carolina and was District Attorney for the 14th Prosecutorial District in Durham County, North Carolina.

4. In or around 16 September 2011, D.P. Brown, an investigator employed by the Durham Police Department and assigned to the District Attorney's Office for the 14th Prosecutorial District, acting under the direction and supervision of Cline, sought to obtain prison visitation records from prison authorities for inmates David Yearwood, Angel Richardson and Keith Kidwell.

5. Brown submitted to prison authorities written requests for each inmate's prison visitation records.

6. Brown's written requests contained the following representations:

(a) "I'm investigating a post conviction Motion for Appropriate [Relief] in that the defendant ... is seeking to attack the jury verdict and the sentence entered by the trial court judge."

(b) "This [sic] visitation lists are needed to make sure he's in compliance with the pre-approved visitors."

(c) "Please note that this information is confidential and part of an on-going investigation." (emphasis omitted)

7. Cline authorized or instructed Brown to make these representations.

8. At the time Brown made these representations, Cline knew, or should have known, that none of the inmates identified by Brown had a pending motion for appropriate relief.

9. At the time Brown made these representations, Cline knew, or should have known, that compliance or noncompliance by Yearwood, Richardson and Kidwell with any visitation policy was not relevant to any current or anticipated legal issues relating to any of these inmates' cases.

10. On 6 October 2011, Cline filed in the Superior Court of Durham County three documents, each entitled "Motion for Production of Visitation Records," in the cases of *State v. David Yearwood*, Durham County file no. 99 CRS 065460; *State v. Keith Kidwell*, Durham County file no. 05 CRS 44342 and *State v. Angel Richardson*, Durham County file no. 06 CRS 59344.

11. In the motions Cline represented to the court that each inmate "is seeking to attack the jury verdict and the sentence entered by the trial court judge" and that the information sought "is pertinent to the investigation of the Motion for Appropriate Relief the above-named defendant has filed."

12. As of 6 October 2011, only Yearwood had pending a motion for appropriate relief.

13. Inmate visitation records were not relevant to the issues raised in Yearwood's motion for appropriate relief.

14. As of 6 October 2011, Kidwell's and Richardson's criminal convictions were on appeal to the Court of Appeals and, therefore, the Superior Court had no jurisdiction to enter orders in those inmates' cases.

15. Cline's representations to the court regarding Kidwell and Richardson that the inmates were "seeking to attack the jury verdict and the sentence entered by the trial court judge" were misleading.

16. At the time she represented to the court that Kidwell and Richardson were "seeking to attack the jury verdict and the sentence entered by the trial court judge," Cline knew that the representations were misleading.

17. Cline's representations to the court that the visitation records were pertinent to investigations of motions for appropriate relief were false and misleading.

18. At the time she represented to the court that the visitation records were pertinent to investigations of motions for appropriate relief, Cline knew that the representations were false and misleading.

19. In each inmate's case, Cline requested her staff to prepare and included with the motions to the court a proposed order granting the relief sought.

20. The Honorable James Hardin, Superior Court Judge, signed Cline's proposed orders on 7 October 2011.

21. Cline did not provide copies of the motions or orders to Yearwood, Kidwell, Richardson or their lawyers, and did not give them notice.

22. Cline's communications to the court in the motions and in obtaining the judge's signature on the orders regarding the three inmates were improper *ex parte* communications with the court.

23. By filing the Motions for Production of Visitation Records and by obtaining from the court orders allowing those motions regarding the three inmates, Cline attempted to use her position as District Attorney to obtain confidential information to which she was not entitled and which she intended to use for an improper purpose.

The Hearing Panel's Order of Partial Summary Judgment entered February 17, 2015 established the following:

## FACTS ESTABLISHED BY SUMMARY JUDGMENT

24. During 2010 and 2011, Cline became concerned about rulings and actions of Senior Resident Superior Court Judge Orlando F. Hudson, Jr.

25. Cline filed a complaint against Judge Orlando F. Hudson, Jr. with the North Carolina Judicial Standards Commission.

26. Instead of waiting for any investigation and action by the Judicial Standards Commission, Cline made repeated statements about the honesty, integrity and fairness of Judge Hudson.

27. On 17 November 2011, in *State v. Dorman*, Durham County file no. 10 CRS 7851, Cline filed in the Durham County Superior Court a document entitled "Conflict of Interest Between the State and This Honorable Court" that contained the following statements about Judge Hudson:

The District Attorney alleges, based on personal knowledge that this Honorable Court's misconduct involves more than an error of judgment or a mere lack of diligence; this Court's actions encompasses [sic] conduct involving moral turpitude, dishonesty and corruption.

28. Cline's statement that Judge Hudson is corrupt is false. Cline made this statement knowing it was false or with reckless disregard as to whether the statement was true or false.

29. Cline's 17 November 2011 document entitled "Conflict of Interest Between the State and This Honorable Court" also contained the following statements about Judge Hudson:

- (a) To design a distorted decision necessary to judicially ordain a pretext of prosecutorial misconduct, which manufactures the intended media mayhem; resolute in attempts to ruin reputations, and incidentally creating court casualties of truth, integrity, and justice.
- (b) [T]his malicious misconduct still continues and will not cease; in that this Honorable Court sacrifices the justice owed to the citizens of Durham County in order to punish the prosecutor . . . .
- (c) [T]his continued constant failure to follow the law for personal privilege to punish the prosecutor is not simple misconduct; this is an appalling action that sacrifices all of the principles of the criminal court system; truth, law, impartiality, and integrity.
- (d) [T]he State's right to be heard has been striped [sic] away under Orders of this Honorable Court, the victims' rights are lost by this Court's calculated schemes, the chief medical examiner's opinion is clouded by a "court

created conspiracy” unsupported by any facts or law; families of murder victims’ faith is forfeited by fictitious findings of this Court, and victims of decade old crimes are being emotionally and relentlessly repeatedly raped by this Court’s rulings, based only on retaliation disregarding what is right, and the criminal justice system’s credibility is a causality [sic] of this Court’s callous misconduct.

- (e) The District Attorney may personally accept the planned purposeful personal attacks of this Court, but there are some sacrifices that are too great for the District Attorney to accept, kidnapping the rights of victims and their families, holding these rights for hostage until the prosecutor plays the game would bankrupt the credibility of our court system and Justice will not play that Game.

30. On 17 November 2011, in *State v. Yearwood*, Durham County file nos. 99 CRS 65452, 65460, and 65461-62, Cline filed in the Durham County Superior Court a document entitled “Respectfully The State’s Request This Honorable Court to Disqualify Himself” that contained the following statements about Judge Hudson:

- (a) [T]hat such conduct will rot the justice system at its core in that the court is not governed by law, the law is replaced by the whims of the Judge and the associations of the Court; this is a total and radical lack of respect for the rule of law which does not promote public confidence in the court, but fertilizes the “favorite son syndrome” of bias and prejudices that the democratic society has for so long tried to alleviate.
- (b) [T]his Honorable Court’s authority and power are no longer controlled by constitutional limits, morality or conscience.
- (c) [T]he intentional malicious misconduct of this Court is covered by the robe, and rationally relied on by reporters and the public. Then media mayhem - another prosecutor withheld evidence; this shameful disgraceful conduct is unimaginable, but true with this Honorable Court. This is gross judicial misconduct.
- (d) [T]his Honorable Court as Senior Resident Superior Court Judge for the Fourteenth Judicial District has not remained faithful to the law and the principles of justice for all, his almost daily degradation of the constitutional rights of victims and the State retards any and all professional confidence in the application of the law by this Court.
- (e) [T]he clandestine claims of misconduct, invented in spite of truth and contrary to the application of the law, which are cowardly conceived by deeds in the dark afraid of the bright light of truth are clearly inconsistent with truth and justice and this Honorable Court knows that this is not consistent with the Administration of Justice. This Honorable Court must acknowledge this. Justice is not ashamed of the light of truth and the right of confrontation. Hiding behind hidden emails,

clandestine communications, and staying stone silent are not the testaments of truth and are legally illegitimate to an impartial and fair Court.

31. On 23 November 2011 in *State v. Peterson*, Durham County file no. 01 CRS 24821, Cline filed in the Durham County Superior Court a document entitled "Respectfully The State's Request This Honorable Court to Disqualify Himself" that contained the following statements about Judge Hudson:

- (a) Such abuse of power, without legal consciousness of right and wrong, having a total and reckless disregard of the law, and a reprobate mind of a monarch, aims to destroy and will destroy, the heart of our justice system if left unchecked.
- (b) [T]hat in these cases this Honorable Court's agenda is to impede the Administration of Justice, attack the calendaring authority of the District Attorney, and appease friends or associates who share his common agenda of falsifying prosecutorial misconduct to make and mold a media mania of unsupported and unwarranted allegations of prosecutorial misconduct, and generally whatever actions in this Court's power whether ethical or not to clandestinely hinder the operation of the District Attorney's Office and to draw a media light to the mayhem this Court personally manufactured.
- (c) [T]he willful misconduct of this Honorable Court is Judicial Power fueled by vengeance and unrestrained power, without responsibility or the regard of the rights of others, or even the basic sense of right and wrong.
- (d) [T]he District Attorney confidently without hesitation indicates based on Personal Knowledge that this Honorable Court is no longer fair and impartial and can not [sic] and will not perform the duties required of him, in an impartial manner. Moreover, this Honorable Court's blatant intentional misconduct destroys the dignity of his office, but worst of all justice becomes a joke in that this unrestrained power is without principles.
- (e) [T]his Honorable Court totally disregards the interests of the State to be heard in these matters and the District Attorney cannot foresee any possibility of this conduct changing anytime in the near or distant future.
- (f) [S]uch abuse of discretion and misuse of authority in total disregard of the facts, the applicable law, by trading reason and common sense for irrational revenge refusing to rely on what is right to seek selfish satisfaction is a cancer in this justice system.
- (g) The true facts and the application of the law are irrelevant to the insolence of this Court.
- (h) [T]his Honorable Court is in total and complete violation of the North Carolina Code of Judicial Conduct and . . . will continue to violate the North Carolina Code

of Judicial Conduct with no regard to the rights of others, no regard of the constitutional protections of the victims of crime, and no regard to the simple difference between right and wrong.

- (i) Orders full of false findings are relayed to and relied upon by the press to agitate or ignite even more distrust in the prosecutors, law enforcement and the entire criminal justice system and for the root of this unjustified contempt to be conceived in the womb of justice, a judge, sworn to be fair and impartial, destroys the dignity of the office of this Honorable Court and for those who use this Court for special situations outside the lines of right and wrong; don't hide your dirty hands; and to those who have seen, and know, yet turn a blind eye, acknowledge your hands are covered with the blood of justice. And be ashamed.

32. On 14 December 2011, Judge Hardin issued the following admonition to Cline regarding the Motions for Production of Visitation Records she had previously filed:

And I know that you are certainly aware that a lawyer shall not knowingly make a false statement of a material fact to the tribunal. ... And, in essence, I think that rule is designed for a lot of reasons, but in particular it relates to ensuring the integrity of the Court, as a practical matter. As professionals, we have to rely upon each other's integrity and character and reputation for truthfulness, and if that's lost it's very difficult, if not impossible, to regain. So with respect to motions that appear before this Court and any other Court of North Carolina, please ensure that they are factual, that they contain no material misstatements of fact, and you will consider this a warning and a public admonition as it relates to that.

33. Subsequent to that 14 December 2011 warning and public admonition, Cline continued to make inflammatory and false statements about Judge Hudson that were unsupported by facts.

34. On 9 January 2012 in *State v. Pollard*, Durham County file no. 09 CRS 53103, Cline filed in the Durham County Superior Court a document entitled "Amended State's Request for Judge Orlando F. Hudson, Jr. to Recuse Himself" that contained the following statements about Judge Hudson:

[T]his Honorable Court uses his power to retaliate against the District Attorney in total disregard of the facts and law; the legal rights of victims and/or victim's [sic] families, and even the horrific impact these actions have on the integrity of the justice system.

35. Cline's statements about Judge Hudson set forth in the preceding paragraphs are not supported by facts and have brought the office of the Durham County District Attorney into disrepute.

36. Cline's statements about Judge Hudson set forth in the preceding paragraphs are not supported by the evidence, are not truthful, and were made by Cline with reckless disregard for the truth.

37. On 18 January 2012, Attorney Kerstin Walker Sutton filed in the Durham County Superior Court an Affidavit seeking Cline's removal as the elected District Attorney for Durham County pursuant to N. C. Gen. Stat. §7A-66, in Durham County Superior Court file no. 12 CVS 1614.

38. Beginning on 20 February 2012, the Honorable Robert H. Hobgood, Superior Court Judge, held a hearing in file no. 12 CVS 1614.

39. Judge Hobgood entered an order in 12 CVS 1614 removing Cline from office and making findings of fact and conclusions of law consistent with paragraphs 25, 26, 28, 33, 35 and 36 above. The standard of proof was clear, cogent and convincing evidence.

Based on the foregoing Findings of Fact and on the facts established by the Order of Partial Summary Judgment entered February 17, 2015, the Hearing Panel makes the following:

#### **CONCLUSIONS OF LAW**

1. All parties are properly before the Hearing Panel and the Panel has jurisdiction over Defendant, Tracey E. Cline, and over the subject matter.

2. Defendant's conduct, as set forth in the Findings of Fact above, constitutes grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(b)(2) in that Defendant violated the Rules of Professional Conduct as follows:

- (a) By authorizing or instructing Brown to make false representations in the memoranda he sent regarding the prison visitation records of Kidwell and Richardson, Defendant knowingly made false statements of material fact or law to third persons in violation of Rule 4.1, violated the Rules of Professional Conduct through the acts of another in violation of Rule 8.4(a), engaged in conduct involving misrepresentation in violation of Rule 8.4(c), and engaged in conduct prejudicial to the administration of justice in violation of Rule 8.4(d).
- (b) By filing the Motions for Production of Visitation Records of Kidwell and Richardson that contained false and misleading statements regarding the pendency of motions for appropriate relief in those inmates' cases, Defendant brought a proceeding or asserted an issue for which there was no basis in law or fact in violation of Rule 3.1.
- (c) By filing the Motions for Production of Visitation Records of Yearwood, Kidwell and Richardson that contained false and misleading statements that the motions were pertinent to the investigation of motions for appropriate relief, Defendant knowingly made false statements of material fact or law to a tribunal in violation of Rule 3.3(a)(1), engaged in conduct involving misrepresentation in violation of



Rule 8.4(c), and engaged in conduct prejudicial to the administration of justice in violation of Rule 8.4(d).

- (d) By failing to provide copies of the motions or the proposed and signed orders in the Yearwood, Kidwell and Richardson cases to opposing counsel, Defendant engaged in improper *ex parte* communications with the court in violation of Rule 3.5(a)(3).
- (e) By filing the document entitled "Respectfully The State's Request This Honorable Court to Disqualify Himself" in *State v. Yearwood*, the document entitled "Conflict of Interest Between the State and This Honorable Court" in *State v. Dorman*, the document entitled "Respectfully the State's Request This Honorable Court to Disqualify Himself" in *State v. Peterson*, and the document entitled "Amended State's Request for Judge Orlando F. Hudson, Jr. to Recuse Himself" in *State v. Pollard*, all of which contained false statements, Defendant asserted frivolous issues for which there was no basis in law or fact in violation of Rule 3.1 and knowingly made false statements of material fact or law to a tribunal in violation of Rule 3.3(a)(1).
- (f) By filing the document entitled "Respectfully The State's Request This Honorable Court to Disqualify Himself" in *State v. Yearwood*, the document entitled "Conflict of Interest Between the State and This Honorable Court" in *State v. Dorman*, the document entitled "Respectfully the State's Request This Honorable Court to Disqualify Himself" in *State v. Peterson*, and the document entitled "Amended State's Request for Judge Orlando F. Hudson, Jr. to Recuse Himself" in *State v. Pollard*, all of which contained false statements, Defendant engaged in conduct involving dishonesty or misrepresentation in violation of Rule 8.4(c) and engaged in conduct prejudicial to the administration of justice in violation of Rule 8.4(d).
- (g) By filing the document entitled "Respectfully The State's Request This Honorable Court to Disqualify Himself" in *State v. Yearwood*, the document entitled "Conflict of Interest Between the State and the Honorable Court" in *State v. Dorman*, the document entitled "Respectfully the State's Request This Honorable Court to Disqualify Himself" in *State v. Peterson*, and the document entitled "Amended State's Request for Judge Orlando F. Hudson, Jr. to Recuse Himself" in *State v. Pollard*, all of which contained false statements about Judge Hudson, Defendant made statements knowing they were false or with reckless disregard for their truth or falsity concerning the qualifications or integrity of a judge in violation of Rule 8.2(a).

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

## **FINDINGS OF FACT REGARDING DISCIPLINE**

1. Defendant has no prior professional discipline.
2. Defendant has cooperated fully in this proceeding.
3. Defendant has a reputation for good character in her home community.
4. The Orders for Production of Visitation Records Cline proposed for each inmate's case and which Judge Hardin signed provided that the visitation records were to be sent directly to the Superior Court judges' chambers and Ms. Cline did not actually receive the records pursuant to the orders.
5. Cline's statements about Judge Hudson contained inappropriate language, were intemperate, were inflammatory, and tended to lessen public confidence in our legal system.
6. There has been significant media coverage of Cline's conduct, including excerpts from the motions being reproduced and public broadcast of the hearing on the petition to remove her from office.
7. Because of the nature of Defendant's misconduct and the fact that the misconduct was committed by Defendant publicly while she was the elected district attorney, the misconduct had a strongly negative impact upon the public's perception of the legal system and upon the ability of the public to repose confidence in the criminal justice system.
8. As a result of the hearing in Durham County Superior Court file no. 12 CVS 1614, Defendant was removed from office as Durham County's District Attorney in March 2012.
9. In the months before Defendant prepared and filed the motions to recuse Judge Hudson which are the subject of this disciplinary case, Judge Hudson made several rulings unfavorable to the State in those criminal cases. In addition, during that time, the local newspaper ran a series of articles critical of Defendant's handling of those criminal cases. Defendant felt strongly that Judge Hudson's rulings and the points made in the media articles were somehow connected and were personal attacks on her. Defendant believed these circumstances demonstrated the judge's improper bias in favor of the defendants in those cases and that it was necessary to seek recusal of the judge. However, by filing the recusal motions -- however sincere her beliefs were that the situation needed to be addressed -- Defendant publicly demonstrated a profound disrespect for the court, the judicial process and the ideals of the judicial system she was sworn to uphold as a public office holder and officer of the court.

Based upon the foregoing Findings of Fact, Conclusions of Law, Findings of Fact Regarding Discipline, the Hearing Panel finds by clear, cogent and convincing evidence the following:

## **CONCLUSIONS REGARDING DISCIPLINE**

1. The Hearing Panel has considered admonition, reprimand, and censure as potential discipline but concludes that admonition, reprimand, or censure would not be sufficient discipline because of the gravity of harm to the public and to the administration of justice in the present case. Furthermore, the Hearing Panel concludes that any sanction less than suspension would fail to acknowledge the seriousness of the offenses committed by Defendant, would not adequately protect the public and would send the wrong message to attorneys and the public regarding the conduct expected of members of the Bar in this State.

2. The Hearing Panel has considered all of the factors contained in 27 N.C. Admin. Code Chapter 1, Subchapter B § .0114(w)(1) and concludes that the following factors, indicating that suspension or disbarment should be considered, are present:

- (a) intent of the defendant to commit acts where the harm or potential harm is foreseeable;
- (b) circumstances reflecting the defendant's lack of honesty, trustworthiness, or integrity;
- (c) negative impact of defendant's actions on the public's perception of the profession;
- (d) negative impact of the defendant's actions on the administration of justice; and
- (e) acts of dishonesty, misrepresentation, deceit, or fabrication.

The remaining factors contained in 27 N.C. Admin. Code Chapter 1, Subchapter B § .0114(w)(1) are not applicable.

3. The Hearing Panel has considered all of the factors contained in 27 N.C. Admin. Code Chapter 1, Subchapter B § .0114(w)(2) and determines that although at least one factor is present the circumstances of this case do not warrant disbarment in order to protect the public.

4. The Hearing Panel has considered all of the factors contained in 27 N.C. Admin. Code Chapter 1, Subchapter B § .0114(w)(3) and finds that the following factors are present and relevant to the imposition of professional discipline in this case:

- (a) absence of prior disciplinary offenses in this state or any other jurisdiction;
- (b) absence of dishonest or selfish motive;
- (c) a pattern of misconduct;
- (d) multiple offenses;
- (e) full and free disclosure to the hearing panel and cooperative attitude toward the proceedings;

- (f) acknowledgment of the wrongful nature of her conduct;
- (g) remorse;
- (h) evidence of good character or reputation; and
- (i) imposition of other penalties or sanctions.

The remaining factors contained in 27 N.C. Admin. Code Chapter 1, Subchapter B § .0114(w)(3) are not applicable.

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

#### **ORDER OF DISCIPLINE**

1. The law license of Defendant, Tracey Cline, is hereby suspended for five years effective thirty days from the date this Order of Discipline is served upon her.
2. Defendant shall submit her law license and membership card to the Secretary of the State Bar no later than thirty days following the date that this Order is served upon her.
3. Defendant shall comply with the wind down provisions contained in 27 N.C. Admin. Code Chapter 1, Subchapter B § .0124, the North Carolina State Bar Discipline and Disability Rules.
4. Defendant shall file an affidavit with the Secretary of the State Bar within ten days of the effective date of this Order of Discipline certifying that she has complied with Rule .0124.
5. Within fifteen days of the effective date of this Order, Defendant will provide the State Bar with a street address (not P.O. box or drawer address) and mailing address at which clients seeking return of their files and records in Defendant's possession or control may obtain such files and records and at which the State Bar may serve any notices or other matters upon her.
6. All costs of this action and administrative fees are taxed to Defendant. Defendant shall pay the costs and administrative fees of this proceeding within sixty days of service of the statement of costs upon her by the Secretary of the State Bar.
7. Defendant shall receive credit toward service of the five year suspension for all time that Defendant has not practiced law since entry of the order removing Defendant from office as District Attorney on March 2, 2012.

8. After serving two years of the active suspension of her license, Defendant may apply for a stay of the remaining period of suspension upon filing a verified petition with the Secretary of the North Carolina State Bar demonstrating by clear, cogent, and convincing evidence that, in addition to complying with the general provisions for reinstatement listed in 27 N.C. Admin. Code Chapter 1, Subchapter B, § .0125(b) of the North Carolina State Bar Discipline and Disability Rules, she has complied with the following conditions. In calculating the date upon which Defendant may apply for a stay of the remaining period of suspension, Defendant shall receive credit for all time that Defendant has not practiced law since entry of the order removing Defendant from office as District Attorney on March 2, 2012.

- (a) Defendant has certified as to the cumulative time she has not engaged in the practice of law between March 2, 2012 and the date of the petition.
- (b) Defendant has kept the North Carolina State Bar Membership Department advised of her current home street address and notified the Bar of any change in address within ten days of such change.
- (c) Defendant accepted all certified mail sent to her by the State Bar and responded to all communications from the North Carolina State Bar, including communications from the Attorney Client Assistance Program, within thirty days of receipt or by the deadline stated in the communication, whichever is sooner, and participated timely and in good faith in the State Bar's fee dispute resolution process for any petition about which she was notified.
- (d) Defendant has not violated the Rules of Professional Conduct or the laws of the United States or any state or local government during the suspension.
- (e) Defendant properly wound down her law practice and complied with the requirements of 27 N.C. Admin. Code Chapter 1, Subchapter B, §.0124, the North Carolina State Bar Discipline and Disability Rules, to the extent applicable.
- (f) Defendant paid the costs and administrative fees of this proceeding within sixty days of service upon her of the statement of costs and administrative fees by the Secretary of the North Carolina State Bar.
- (g) Defendant is current in payment of all Membership dues, fees and costs, including all Client Security Fund assessments and other charges or surcharges the State Bar is authorized to collect from her, and including all judicial district dues, fees and assessments, and that there is no deficit in Defendant's completion of mandatory Continuing Legal Education (CLE) hours, in reporting of such hours, or in payment of any fees associated with attendance at CLE programs.

9. If Defendant successfully petitions for a stay, the suspension of Defendant's law license shall be stayed only so long as Defendant complies and continues to comply with the conditions set forth below:

- (a) Defendant shall not violate the Rules of Professional Conduct or the laws of the United States or of any state or local government during the stayed suspension;
- (b) Defendant shall keep the North Carolina State Bar Membership Department advised of her current business and home addresses and shall notify the Bar of any change in address within ten days of such change;
- (c) Defendant shall respond to all communications from the North Carolina State Bar, including communications from the Attorney Client Assistance Program, within thirty days of receipt or by the deadline stated in the communication, whichever is sooner, and shall participate in good faith in the State Bar's fee dispute resolution process for any petition of which she receives notice after the effective date of this Order;
- (d) Defendant shall promptly accept service of all certified mail from the State Bar; and
- (e) Defendant shall timely comply with all State Bar Membership and Continuing Legal Education requirements.

10. If Defendant fails to comply with any of the conditions of the stayed suspension provided in paragraph 9(a) – (e) above, the stay of the suspension may be lifted as provided in § .0114(x) of the North Carolina State Bar Discipline and Disability Rules.

11. If Defendant does not seek a stay of the suspension of her law license or if some part of the suspension is stayed and thereafter the stay is revoked, Defendant must comply with the conditions set out in paragraphs 8 (a) – (g) above and the provisions of 27 N.C. Admin. Code Chapter 1, Subchapter B, § .0125 before seeking reinstatement of her license to practice law, and must provide in her petition for reinstatement clear, cogent, and convincing evidence showing her compliance therewith.

12. The Disciplinary Hearing Commission will retain jurisdiction of this matter pursuant to 27 N.C. Admin. Chapter 1, Subchapter B, § .0114(x) of the Rules and Regulations of the North Carolina State Bar throughout the period of any stay of the suspension.

Signed by the Chair with the full knowledge and consent of the other Hearing Panel members, this the 22<sup>nd</sup> day of June, 2015.

  
Steven D. Michael, Chair  
Disciplinary Hearing Panel