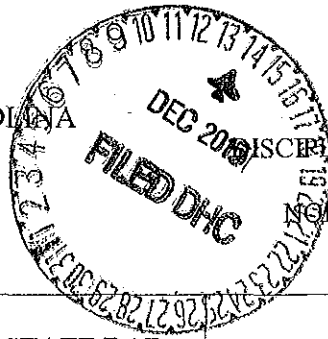


STATE OF NORTH CAROLINA

WAKE COUNTY



BEFORE THE  
DISCIPLINARY HEARING COMMISSION  
OF THE  
NORTH CAROLINA STATE BAR  
15 DHC 31

THE NORTH CAROLINA STATE BAR,

Plaintiff

v.

LEROY R. CASTLE, Attorney,

Defendant

ORDER OF DISCIPLINE

This matter was considered by a Hearing Panel of the Disciplinary Hearing Commission composed of Walter E. Brock, Jr., Chair, and members Shirley L. Fulton and Randy A. Moreau pursuant to 27 N.C.A.C. 1B § .0114 of the Rules and Regulations of the North Carolina State Bar. Plaintiff was represented by Deputy Counsel Margaret T. Cloutier. Defendant, Leroy R. Castle appeared *pro se*. Defendant was properly served with process and the matter came before the Hearing Panel with due notice to all parties.

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

#### FINDINGS OF FACT

1. Plaintiff, the North Carolina State Bar ("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, Leroy R. Castle (hereafter "Castle" or "Defendant"), was admitted to the North Carolina State Bar on August 18, 1984 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 or part of the relevant periods referred to herein, Defendant was engaged in the practice of law in the State of North Carolina and maintained a law office in Durham, Durham County, North Carolina.

4. On or about April 1, 2014 Castle met with C. King to discuss a custody matter involving the Department of Social Services and her young nephews.

5. Castle agreed to represent King.

6. King gave Castle original documents pertinent to the custody action. Castle promised to copy and return the original documents to King.

7. Castle told King he would prepare a custody motion and let her know when it was ready for signing.

8. Castle did not contact King about signing the completed custody motion.

9. King subsequently requested Castle to return the original documents King had provided to Castle by calling, texting, and emailing Castle.

10. Castle did not respond to King, did not provide documents for her to sign, and did not return her original documents.

11. King contacted the North Carolina State Bar Attorney-Client Assistance Program (hereafter "A-CAP") for assistance in obtaining her documents from Castle.

12. A representative of the A-CAP contacted Castle on October 2, October 14, and October 21, 2014 requesting Castle to return King's original documents to her.

13. Castle did not respond to the A-CAP representative nor did he return the documents to King after being contacted.

14. Castle did not return King's documents to her until after January 9, 2015.

15. King and Castle did not enter into a formal written contract for services and King did not pay any funds to Castle toward a retainer or fees as quoted by Castle; nevertheless, King met with Castle, discussed her matter in confidence, and sought Castle's advice on King's specific matter with the intent that Castle would represent her in the matter.

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

#### CONCLUSIONS OF LAW

1. All parties are properly before the Hearing Panel, and the Panel has jurisdiction over Defendant and the subject matter of this proceeding.

2. An attorney-client relationship was established between Castle and King.

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

- (a) By failing to prepare the custody motion as he agreed to do, Castle failed to act with reasonable diligence and promptness in representing a client in violation of Rule 1.3; and
- (b) By failing to return King's original documents after multiple requests to do so, Castle failed to act with reasonable diligence and promptness in representing a client in violation of Rule 1.3, failed to promptly comply with reasonable requests for information in violation of Rule 1.4(a)(4), and failed to take steps to the extent reasonably practicable to protect a client's interests upon termination of the representation in violation of Rule 1.16(d).

Based on the forgoing Findings of Fact, Conclusions of Law, and the evidence presented at the hearing, the Hearing Panel hereby finds by clear, cogent and convincing evidence the following:

#### FINDINGS OF FACT REGARDING DISCIPLINE

- 1. As a result of Castle's failure to prepare documents relating to the custody matter, King was unable to attempt to intervene in the matter involving her nephews.
- 2. When Castle was unresponsive to her efforts to contact him, King felt that she could not seek the help of another lawyer in the matter because Castle had not returned her original custody documents.
- 3. King relied on Castle to help her with the matter regarding her nephews and felt that without Castle's help her wishes would not be heard by the court or the Department of Social Services.
- 4. Castle has practiced law since he was licensed in 1984.
- 5. Castle continued to insist that he had no duty to prepare the documents for King or to return her original documents promptly at her request, even in light of this Panel's determination that an attorney- client relationship had been established and that the Rules of Professional Conduct regarding a lawyer's duties to clients applied to Castle in this matter.
- 6. Castle has been previously disciplined by the North Carolina State Bar, to wit:
  - a) Admonition for trust account deficiencies discovered by the random audit and failure to respond to Bar in 1998;
  - b) Censure for neglect of appeal and failure to respond to Bar in 2001;
  - c) Reprimand for failure to participate in fee dispute and failure to respond to the grievance in 2005;
  - d) Reprimand for failure to return client file in 2006; and
  - e) Two year suspension (six months active) for neglect, failure to communicate with client and failure to respond to Bar in 2008

7. The Hearing Panel has carefully considered all of the different forms of discipline available to it, including admonition, reprimand, censure, suspension, and disbarment, in considering the appropriate discipline to impose in this case.

Based on the Findings of Fact and Conclusions of Law above and the additional Findings of Fact Regarding Discipline, the Hearing Panel makes the following:

#### CONCLUSIONS REGARDING DISCIPLINE

1. The Hearing Panel has carefully considered all of the different forms of discipline available to it. In addition, the Hearing Panel has considered all of the factors enumerated in 27 N.C.A.C. 1B § .0114(w)(1) of the Rules and Regulations of the North Carolina State Bar and concludes that the following factor is present:

- (a) Intent of the Defendant to commit acts where the harm or potential harm is foreseeable.

2. The Hearing Panel has considered all of the factors enumerated in 27 N.C.A.C. 1B § .0114(w)(2) of the Rules and Regulations of the North Carolina State Bar and concludes no factors are present in this instance that would warrant disbarment.

3. The Hearing Panel has considered all of the factors enumerated in 27 N.C.A.C. 1B § .0114(w)(3) of the Rules and Regulations of the North Carolina State Bar and concludes the following factors are applicable in this matter:

- (a) Prior discipline;
- (b) Pattern of misconduct;
- (c) Multiple offenses;
- (d) Refusal to acknowledge the wrongful nature of the conduct;
- (e) Vulnerability of the victim; and
- (f) Defendant's substantial experience in the practice of law

4. The Hearing Panel has considered issuing lesser discipline but concludes that such discipline would not be sufficient in light of Castle's actions, his past discipline and the potential significant harm that could have resulted from his conduct.

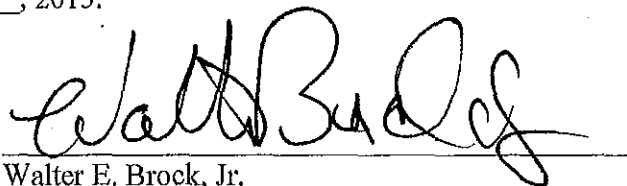
5. The Hearing Panel further concludes that the only ways to protect the public will be to suspend Castle's license for a substantial period of time.

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

### ORDER OF DISCIPLINE

1. Defendant, Leroy R. Castle, is hereby SUSPENDED from the practice of law for a period of three years effective sixty days from the service of this Order upon him.
2. Castle shall surrender his law license and membership card to the Secretary of the North Carolina State Bar no later than sixty days following service of this Order upon him.
3. Castle shall pay all administrative fees and costs of this proceeding as assessed by the Secretary within thirty days after service of the statement of costs on him.
4. Within thirty days of the effective date of this Order, Castle will provide the North Carolina State Bar with an address and telephone number at which clients seeking return of files can communicate with Defendant and obtain such files.
5. Castle shall return client files to clients within five days of receipt of request. Castle will be deemed to have received any such request three days after the date the request is sent to him if the request is sent to the address Castle provided the State Bar pursuant to this Order.
6. Castle shall comply with all provisions of 27 N.C. Admin. Code 1B §.0124 regarding obligations of suspended attorneys not inconsistent with the terms of this Order.
7. After serving the period of suspension, Castle shall comply with the general provisions for reinstatement listed in 27 N.C. Admin. Code 1B §.0125(b) before he may be reinstated to active status.

15<sup>th</sup> Signed by the Chair with the consent of the other Hearing Panel members, this the  
day of December, 2015.



Walter E. Brock, Jr.  
Chair, Disciplinary Hearing Panel