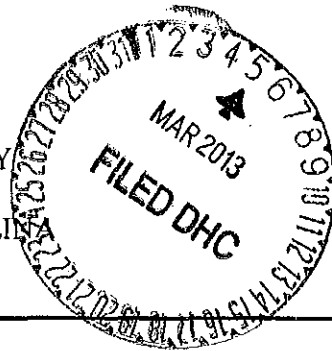


WAKE COUNTY  
NORTH CAROLINA



BEFORE THE DISCIPLINARY  
HEARING COMMISSION OF  
THE NORTH CAROLINA STATE BAR  
12 DHC 42

IN RE: DAVID SHAWN CLARK, ATTORNEY )

) ORDER OF  
) INTERIM SUSPENSION  
)

This matter came on for hearing before the undersigned Chair of the Disciplinary Hearing Commission pursuant to 27 N.C. Admin. Code, Chapter 1, Subchapter B, Rule .0115 of the N.C. State Bar Discipline and Disability Rules on motion of the North Carolina State Bar for entry of an order of interim suspension. Leonor Bailey Hodge represented the North Carolina State Bar. David Shawn Clark (hereafter, "Clark") was represented by David B. Freedman and Dudley A. Witt.

Based upon the record, the certified copy of the Misdemeanor Statement of Charges in Catawba County Superior Court Case Nos. 11 CRS 7496A, 11 CRS 7497A and 11 CRS 7498A, the certified copy of the judgment in Catawba County Superior Court Case Nos. 11 CRS 7496A, 11 CRS 7497A and 11 CRS 7498A, and the evidence presented at the hearing, the Chair, in her discretion, makes the following:

#### FINDINGS OF FACT

1. Clark was licensed to practice law in North Carolina in 1997.
2. Clark's last known address of record is 200 First Avenue, NW, Hickory, NC 28601.
3. On or about 14 September 2012, Clark pled guilty in Catawba County Superior Court Case Nos. 11 CRS 7496 and 11 CRS 7497 to two counts of misdemeanor communicating threats in violation of N.C. Gen. Stat. § 14-277.1 and in Catawba County Superior Court Case No. 11 CRS 7498 to one count of common law obstruction of justice. Clark entered his guilty pleas in Catawba County Superior Court before the Honorable W. David Lee.
4. Clark's guilty pleas were based upon conduct as set out in the above referenced Misdemeanor Statements of Charges as follows:
  - a. "[Clark] had been involved in a sexual relationship with Ms. [Tiffany] Turnmire while he was representing her."
  - b. In or about November 2009, "[Clark] did unlawfully and willfully prepare an Affidavit for a client to sign, Ms. Tiffany Turnmire....[Clark] drafted the Affidavit for Ms. Turnmire to sign for the purpose of falsely

denying that she and [Clark] had engaged in a sexual relationship during the time he represented her.”

- c. “The purpose of the false affidavit was to be used to defeat allegations threatened to be brought by Ms. Turnmire’s estranged husband...in an [a]lienation of [a]ffection lawsuit he was threatening to bring against [Clark].”
- d. “At the time [Clark] drafted the affidavit (*sic*) he knew its contents were false and wanted Ms. Turnmire to sign and provide it to her estranged husband to prevent (*sic*) obstruct and impede justice in any case brought or to be brought by [Turnmire’s estranged husband] against [Clark].”
- e. In or about October 2009, “[Clark] did unlawfully and willfully did (*sic*) communicate a threat to Ms. Tiffany Turnmire, a client of [Clark’s], by seeking to have her lie about the nature of the relationship that existed between Ms. Turnmire and [Clark] while he was representing her.”
- f. “[Clark] told Ms. Turnmire that he wanted her to deny that they had engaged in a sexual relationship during the time [Clark] represented her, which [Clark] knew was false.”
- g. “[Clark] wanted Ms. Turnmire to lie and deny that they had engaged in such a sexual relationship so that he could successfully defend an anticipated lawsuit that Ms. Turnmire’s estranged husband was planning on bringing against [Clark] for [a]lienation of [a]ffection.”
- h. “When Ms. Turnmire indicated that she did not want to lie, [Clark] became very upset with her and threatened her that if she did not do as he was telling her to do, he threatened her that he would see to it that she would lose custody of her children, and that he would provide information that he had received as a result of the attorney-client privilege to see that her children would be taken and kept from her by the Department of Social Services.”
- i. “[Clark] did this without lawful authority, knowing that his client was terrified the children would be kept from her, and that this would be physically and emotionally damaging to both her and the children.”
- j. “[Clark’s] threat was communicated to [Turnmire] on a number of occasions orally and Ms. Turnmire was terrified he would carry out the threat that would be both physically injurious and emotionally injurious to her and the children.”
- k. “The threat was made in a manner that would make a reasonable person believe that it was likely to be carried out and the threat was made in

such a manner that it was believed by Ms. Turnmire who felt extremely threatened by the threats made by [Clark].”

- l. On or about 10 March 2010, “[Clark] did unlawfully and willfully threaten Ms. Terri Edwards, an adult female, who at the time in question, Ms. Edwards (*sic*) was [Clark’s] legal secretary.”
  - m. “[Clark] sought a promise from Ms. Edwards that she would never reveal what she knew about the true nature of the relationship between Ms. Tiffany Turnmire...” and Clark.
  - n. “Ms. Edwards advised [Clark] that ‘she would not put her hand on the Bible and lie for anyone.’”
  - o. “Upon hearing [Edwards’ statement] [Clark] became quite agitated towards Ms. Edwards and advised her that she was his only ‘loose end.’”
  - p. “[Clark] advised Ms. Edwards that he would not lose his family or law license over the issues he was facing and that if she did not do what he requested ‘then you know I’m going to have to kill you.’”
  - q. “Ms. Edwards was so frightened by the comment and the demeanor of [Clark] she believed that he was likely to carry it out if she did not do what he requested.”
  - r. “Ms. Edwards was so terrified that she left the office shortly thereafter and only returned once the next morning to get her personal belongings and leave her keys to the office.”
  - s. “As a result of the threat, [Edwards] quit her job and had no further contact with [Clark].
5. From October 2009 through March 2010, Clark remained resolute in his efforts to not just ask other people to lie, but to insist that they do so, to the extent of threatening them.
6. The crimes to which Clark pled guilty involved deceit, extortion and interference with the judicial process. These crimes also show professional unfitness.
7. On or about 7 November 2011, the *Hickory Daily Record* published a news article titled “Former District Attorney Candidate Indicted on Felonies.” This article stated, among other things, that Clark was indicted for two counts of extortion and one count of obstruction of justice. This article also included references to Clark’s conduct as described above.

8. On or about 14 September 2012, the *Hickory Daily Record* published a news article titled "Hickory Attorney Pleads Guilty in Superior Court." This article stated, among other things, that the obstruction charge was due to Clark's preparing an affidavit for Turnmire that had false information in it. This article also included references to Clark's conduct as described above.

Based on the record and the foregoing Findings of Fact, the Chair, in her discretion, makes the following:

#### CONCLUSIONS OF LAW

1. All parties appeared before the Chair of the Disciplinary Hearing Commission and the Chair has jurisdiction over David Shawn Clark and over the subject matter of this proceeding.

2. The offenses to which Clark pled guilty are criminal offenses showing professional unfitness as defined by Rule .0103(17) of the State Bar Discipline & Disability Rules.

3. Clark's conduct caused significant harm to the legal profession in that it brought the legal profession into disrepute.

4. Clark's conduct caused significant harm to Turnmire who was terrified after being told by her lawyer that he would impose serious consequences if she did not lie as he demanded.

5. Clark's conduct caused significant harm to Edwards who was terrified and lost her employment.

6. Clark's conduct caused potential significant harm to the administration of justice in that Clark has shown that he is willing to suborn perjury for his own personal reasons.

7. Clark's conduct caused potential significant harm to the administration of justice in that Clark has shown that he is willing to submit a false affidavit for his own purposes.

8. Clark's conduct caused potential significant harm to the profession in the eyes of the public in that Clark engaged in conduct that diminishes the public's expectation that attorneys conduct themselves professionally, adhere to the Rules of Professional Conduct, and respect the laws they have sworn to uphold.

9. Clark's conduct of threatening to kill an employee if that employee testified truthfully caused potential significant harm to the public in that it diminishes the ability of members of the public to trust attorneys.

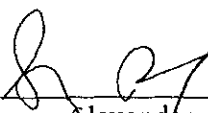
10. The public would not be adequately protected if Clark is allowed to continue to practice law pending the outcome of the disciplinary proceeding against him because of Clark's demonstrated willingness to engage in deceit, and to encourage and demand deceit from others.

11. The public would not be adequately protected if Clark is allowed to continue to practice law pending the outcome of the disciplinary proceeding against him because the deceit in which Clark engaged was directly related to a threatened lawsuit and had the potential to adversely affect the administration of justice in that lawsuit.

THEREFORE, IT IS HEREBY ORDERED that:

1. David Shawn Clark is hereby suspended from the practice of law pending the disposition of the disciplinary proceeding against him.
2. Clark shall submit his law license and membership card to the Secretary of the State Bar no later than thirty (30) days following the date that this Order is served upon Clark.
3. Clark shall comply with the wind down provisions contained in 27 N.C.A.C. 1B§ .0124, the North Carolina State Bar Discipline and Disability Rules.
4. The State Bar shall file the disciplinary complaint against Clark on or before 28 February 2013.

This the 04 day of March, 2013.

  
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Sharon Alexander, Chair  
Disciplinary Hearing Commission