

“Bar Watch” attorney held in contempt

By: David Donovan ◉ May 9, 2019

A Candler attorney engaged in a well-publicized battle with the North Carolina State Bar has been held in contempt of court and sentenced to 48 hours in jail for failing to comply with a court order instructing him to answer questions and hand over documents that the bar is seeking as part of an investigation into his alleged misconduct.

Wake County Superior Court Judge Keith Gregory held the attorney, Alan Phillips, in contempt after a court hearing on May 9, finding that Phillips had willfully failed to comply with the February order.

At the hearing, Phillips contended that the bar’s discovery request was “vague and confusing,” and that he would do everything he could to provide the bar with the documents it seeks if he could get further clarification.

“I’m not here to argue with anyone,” Phillips said. “I am here to do whatever I can to be in compliance. I am not here this morning to hide or conceal or get out of anything.”

But Josh Walthall, counsel for the state bar, said that Phillips had given the bar “evasive and incomplete” answers to its interrogatives.

“It is difficult to believe that there was a good faith effort to comply,” Walthall told the court.

Phillips is the director of an organization called Bar Watch that works to give wider publicity to his quarrel with the state bar. Most attorneys have likely received emails from the group presenting Phillips’s side of the story regarding his case and accusing the bar of misconduct, whereas the bar has largely declined to comment on the dispute.

Phillips has filed ethics grievances against various named and unnamed attorney employees and officers of the bar. According to a letter published on Bar Watch’s website, Phillips had alleged that state bar attorneys had engaged in the unauthorized practice of law in connection with the bar’s grievance committee issuing him a letter of warning.

In previous court proceedings Phillips argued that these grievances created a “conflict of interest” that should preclude the bar from conducting the misconduct investigation against him.

But Superior Court Judge Stephan Futrell, who issued the February order that led to the contempt finding, rejected that argument, writing that a neutral party had investigated Phillips’s allegations and found that there was no basis for them.

“Even so, such a claim is not sufficient from disqualifying the State Bar from fulfilling its statutory duty to inquire and investigate the allegations that [Phillips] is engaged in the unauthorized practice of law,” Futrell wrote in the order. “Thus, the status of that proceeding should not constitute grounds for delaying or affecting the conduct of the State Bar’s proceeding as against [Phillips] herein.”

Since Phillips is actively licensed in North Carolina, presumably the alleged unauthorized practice would have occurred in other states. On his website, Phillips styles himself as a “vaccine rights” attorney who helps clients secure exemptions to mandatory vaccination laws in North Carolina and elsewhere. (There is no medically sound evidence that vaccines negatively impact children’s health, and a great deal of evidence that they help protect children from preventable and potentially fatal diseases.)

In an email sent prior to the hearing, Katherine Jean, counsel for the state bar, wrote that “Mr. Phillips and people affiliated with him have submitted complaints against State Bar officers, councilors and employees. He contends those complaints create conflicts that prevent the persons complained about from addressing the grievance against him. He also speculates about how those complaints have been addressed by the State Bar. Please be assured the

State Bar follows an appropriate procedure to evaluate allegations that a person affiliated with the State Bar has a conflict of interest in addressing a complaint.”

Phillips was not represented by counsel at the hearing and, understandably, could not be reached for comment afterward.

Lawyers Weekly reporter Bill Cresenzo attended the hearing in person and contributed to this story.

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