

BEFORE THE INDIANA STATE
 PSYCHOLOGY BOARD
 CAUSE NO.: 2018ISPB0001



IN THE MATTER OF THE LICENSE OF:)
)
 ALBERT H. FINK)
)
 LICENSE NO: 20090108A)

HEARING NOTICE

Comes now the (“Board”) pursuant to Ind. Code § 4-21.5-3-20 and issues the following Hearing Notice:

1. This notice is being provided to Respondent, Albert H. Fink, 3730 East Villa Glen Court, Bloomington Indiana 47401 and Respondent’s counsel, Jeffery Neal, Hart Bell, LLC, 513 Main Street, Vincennes Indiana 47591.
2. This notice is being provided to counsel for Petitioner, State of Indiana, Natalie R. Stidd, Deputy Attorney General, Office of the Attorney General, Indiana Government Center South, 302 West Washington Street, 5th Floor, Indianapolis, Indiana, 46204, (317) 232-6229.
3. The official cause number of this action is: 2018ISPB0001.
4. This action is a hearing to address the allegations contained in the Complaint filed by Petitioner on March 01, 2018.
5. A hearing regarding this matter will be held on **May 11, 2018 at 9:00 a.m.**, Local Time, Indiana Government Center South Room W064, 402 West Washington Street, Indianapolis, Indiana 46204.

6. The Board is empowered to hold this administrative hearing pursuant to the authority of Ind. Code ch. 25-1-9 and Ind. Code art. 4-21.5 *et seq.*
7. The Board will be presiding as administrative law judge in this matter. Keri Reed, Assistant Director of the Indiana State Psychology Board, may be contacted to obtain information concerning hearing schedules and procedures by mail in care of the Indiana Professional Licensing Agency, 402 West Washington Street, Room W072, Indianapolis, Indiana 46204, by e-mail at kreed1@pla.in.gov, by facsimile at (317) 233-4236, or by telephone at (317) 234-2043.
8. The hearing will address the issues contained in the Complaint filed **March 01, 2018** which is attached hereto and incorporated herein by reference as **Exhibit A**.
9. Any party may be advised and represented by counsel at the party's own expense.
10. A party who fails to attend or participate in a pre-hearing conference, hearing, or other later stage of this proceeding may be held in default or have the proceeding dismissed under Ind. Code § 4-21.5-3-24.
11. Pursuant to Ind. Code § 4-21.5-3-34, this Commission may afford parties the opportunity to informally settle matters; however, this section does not require any person to settle a matter under this agency's informal procedures.

SO ORDERED this 6th day of March, 2018.

By: Herbert W. Price
Joseph R. Biggs, Ph.D., Chairman
Indiana State Psychology Board
Indiana Professional Licensing Agency

for

CERTIFICATE OF SERVICE

I certify that a copy of the "Hearing Notice" has been duly served upon:

Albert H. Fink
3730 East Villa Glen Court
Bloomington IN 47401
Sent via U.S. Mail

Jeffery Neal
Hart Bell, LLC
513 Main Street
Vincennes, IN 47591
Sent via U.S. Mail

Natalie R. Stidd
Office of the Attorney General
Indiana Government Center South, 5th Floor
302 West Washington Street
Indianapolis, IN 46204
Natalie.Stidd@atg.in.gov
Service by E-mail

3/6/18
Date



Keri Reed, Assistant Director

Indiana Government Center South
402 West Washington St., Room W072
Indianapolis, IN 46204
Phone: (317) 234-2043
Email: pla2@pla.in.gov

Explanation of Service Methods

Personal Service: by delivering a true copy of the aforesaid document(s) personally.

Service by U.S. Mail: by serving a true copy of the aforesaid document(s) by First Class U.S. Mail, postage prepaid.

Service by Email: by sending a true copy of the aforesaid document(s) to the individual's electronic mail address.

IN THE MATTER OF THE LICENSE OF:)
ALBERT H. FINK, Ph.D., HSPP)
LICENSE NO: 20090108A (Active))



ADMINISTRATIVE COMPLAINT

The State of Indiana (“Petitioner”), by counsel, Natalie R. Stidd, Deputy Attorney General, on behalf of the Office of the Indiana Attorney General, and pursuant to Ind. Code § 25-1-7-7, Ind. Code ch. 25-1-5, Ind. Code § 25-33-1-3, the Administrative Orders and Procedures Act, Ind. Code ch. 4-21.5-3, and Ind. Code ch. 25-1-9, files its Administrative Complaint against the Indiana psychologist license of Albert H. Fink, Ph.D., HSPP (“Respondent”), before the Indiana State Psychology Board (“Board”) and, in support, alleges and states the following:

FACTS

1. Respondent is a Psychologist in the State of Indiana having been issued license number 20090108A, by examination, on November 2, 1973, Respondent received his endorsement as a health service provider in psychology (“HSPP”) on January 20, 1984.
2. Respondent’s address on file with the Indiana Professional Licensing Agency (“IPLA”) is 3730 East Villa Glen Court, Bloomington, Indiana 47401.
3. On September 21, 2015, the Vanderburgh County Circuit Court issued its “Order for Competency and Sanity Evaluation” in State of Indiana v. Caleb Loving, 82C01-1507-F2-004439, which set forth:

It is hereby ordered that Dr. David C. Cerling of Integrity Psychological & Counseling and Dr. Albert H. Fink of Vincennes, Indiana, examine the Defendant in the above entitled cause, who

currently is incarcerated in the Vanderburgh County Jail, to determine whether this Defendant is competent to stand trial, understand the charges against the Defendant, assist the Defendant's counsel in the Defendant's defense and, if possible, whether the Defendant was legally sane or insane at the time of the commission of the alleged offense and file a written report on such findings with the Court as soon as possible.

4. On October 3, 2015, Respondent filed with the Court his Psychological Evaluation Report regarding Caleb Loving ("Loving"), dated the same, in accordance with the Court's September 21, 2015 Order. On November 25, 2015, Dr. Cerling filed with the court his report, dated November 2, 2015.

5. On November 4, 2015, Respondent was paid \$875.00 by Vanderburgh County for conducting the competency evaluation of Loving.

6. On January 6, 2016, the Court issued its "Order Determining Competency to Stand Trial," in State of Indiana v. Caleb Loving, based upon the reports of Respondent and Dr. Cerling. In summary, the court found, "(t)he defendant presently is mentally competent, ..., and that further proceedings in this cause shall not be delayed or continued on the ground of the defendant's alleged lack of comprehension."

7. On August 1, 2016, the jury trial in State of Indiana v. Caleb Loving began in Vanderburgh County.

8. On August 2, 2016, Respondent was in a one vehicle wreck outside of the city of Bloomington, in which Respondent's car struck a large tree. Indiana State Police ("ISP") Trooper Stacy Brown ("Trooper Brown"), accompanied by ISP Sergeant Chris Fears, responded to the wreck. In the course of ISP's routine investigation, Respondent informed Trooper Brown that he had intentionally wrecked into the tree to try to take his own life. Respondent further

volunteered that his reason for wrecking into the tree was that upon his testimony in the trial of State of Indiana v. Caleb Loving, it would be revealed that he falsified his report.

9. Respondent was transported from the scene of the wreck to Indiana University Health Bloomington Hospital, where he was placed on a seventy-two (72) hour mental health hold by law enforcement.

10. ISP alerted the Vanderburgh County Prosecutor's Office of the statements made by Respondent, who was scheduled to testify in State of Indiana v. Caleb Loving on August 3, 2016, the day after Respondent's accident. Based upon Respondent's statements, the Vanderburgh County Prosecutor and Loving's public defender moved for a mistrial, which was granted on August 3, 2016.

11. The investigation regarding Respondent's falsified report was conducted by the Evansville Police Department ("EPD"), with assistance from the Vanderburgh County Sheriff's Department ("VCSD").

12. In his competency evaluation report of Loving, Respondent claimed to have conducted his evaluation of Loving on September 28, 2015, at the Vanderburgh County Confinement Center ("VCCC"). VCSD found no record of Respondent visiting Loving at the VCCC on September 28, 2015, or any other day. Moreover, Loving was never released or transported to any other facility after he was arrested.

13. On August 5, 2016, Respondent was charged with one count of Obstruction of Justice, a level 6 Felony and one count of Theft, a level 6 Felony under Vanderburgh County criminal cause number 82D03-1608-F6-004509. The Obstruction of Justice charge related to Respondent filing the falsified competency evaluation report regarding Loving, and the Theft

charge related to Respondent accepting payment from Vanderburgh County for the falsified report.

14. On August 8, 2017, a plea agreement was filed with the Vanderburgh Superior Court, whereby Respondent agreed to plead guilty to Obstruction of Justice, a level 6 Felony, and the State agreed to dismiss the Felony Theft charge. Factual basis was found, and Judgment of Conviction for Obstruction was entered by the Court; the Theft charge was dismissed.

15. On August 18, 2017, Respondent was sentenced to 18 months in the Indiana Department of Correction, with credit for 8 days, the remainder of the sentence was suspended to probation. As a special condition of the criminal sentence, Respondent agreed to surrender any and all of his professional licenses. As a term of Respondent's probation, he was ordered to reside in Redbud Hills¹, an assisted living facility, in Bloomington, Indiana. If Respondent moves from assisted living facilities or nursing homes, he shall be placed on electronic home detention for the term of his probation. Respondent was also ordered to pay \$10,000.00 restitution to Vanderburgh Superior Court.

VIOLATIONS

16. By Respondent's criminal conviction for Felony Obstruction of Justice, in August 2017, for submitting a falsified competency evaluation report regarding Caleb Loving to Vanderburgh Circuit Court, Respondent has been convicted of a crime that has a direct bearing on his ability to continue to practice competently, a violation subjecting him to disciplinary sanctions pursuant to Ind. Code § 25-1-9-4(a)(2)(A).

17. By Respondent's criminal conviction for Felony Obstruction of Justice, in August 2017, for submitting a falsified competency evaluation report regarding Caleb Loving to Vanderburgh Circuit Court, Respondent has been convicted of a crime that is harmful to the

¹Respondent's mailing address at Redbud Hills is 3211 E. Morris Pike, Apt. 324, Bloomington, IN 47401.

public, a violation subjecting him to disciplinary sanctions pursuant to Ind. Code § 25-1-9-4(a)(2)(B).

18. By Respondent's actions in completing and submitting a falsified competency evaluation report regarding Caleb Loving to Vanderburgh Circuit Court, for which Respondent was paid by Vanderburgh County, Respondent engaged in fraud or material deception in the course of professional services or activities, a violation subjecting him to disciplinary sanctions pursuant to Ind. Code § 25-1-9-4(a)(1)(B).

19. Respondent's conduct in undertaking an assignment from Vanderburgh Circuit Court to complete a competency evaluation, falsifying the report in order to complete that assignment, and having been convicted of Felony Obstruction of Justice based upon the falsified report, Respondent failed to render services within generally accepted ethical principles and guidelines of the psychology and failed to maintain an awareness of his personal and professional limitations. Thereby, Respondent failed to comply with 868 IAC 1.1-7-5(d), and is subject to disciplinary sanctions for this knowing violation of a state statute or rule regulating his profession pursuant to Ind. Code § 25-1-9-4(a)(3).

ACCORDINGLY, Petitioner demands the Board enter an order finding that:

1. Respondent is subject to discipline according to Ind. Code ch. 25-1-9;
2. Imposes the appropriate disciplinary sanctions pursuant to Ind. Code § 25-1-9-9;
3. Directs Respondent to immediately pay all costs incurred in the prosecution of this case, including a fee of Five Dollars (\$5.00) to be deposited into the Health Records and Personal Identifying Information Protection Trust Fund pursuant to Ind. Code § 4-6-14-10(b), and;
4. Provides any further relief as the Board deems just and proper in the premises.

Respectfully submitted,

CURTIS T. HILL, JR.,
Attorney General of Indiana
Atty. No.: 13999-20

By: Natalie R. Stidd
Natalie R. Stidd,
Deputy Attorney General
Atty. No.: 28081-55

Office of Indiana Attorney General Curtis Hill
Indiana Government Center South, Fifth Floor
302 West Washington Street
Indianapolis, Indiana 46204-2770
(317) 232-6229 / natalie.stidd@atg.in.gov

CERTIFICATE OF SERVICE

I hereby certify that on the 1ST day of March, 2018, a true and correct copy of the
“Administrative Complaint” was served on the following party via First Class U.S. Mail, postage
prepaid.

Mr. Jeffery Neal
Hart Bell, LLC
513 Main Street
Vincennes, IN 47591
Counsel for Respondent

By: Natalie R. Stidd
Natalie R. Stidd
Deputy Attorney General
Attorney No. 28081-55

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