

NORTH CAROLINA
WAKE COUNTY



BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
10 DHC 13

The North Carolina State Bar,

Plaintiff)

v.)

Mark A. Key, Attorney,

Defendant)

Order Dismissing Appeal

This matter was considered by the Hearing Panel of the Disciplinary Hearing Commission on Plaintiff's motion to dismiss the appeal of Mark A. Key in the above referenced proceeding pursuant to Rule 25(a) of the Rules of Appellate Procedure. Based upon the record and the supporting affidavits filed with Plaintiff's motion, the Hearing Panel makes the following

Findings of Fact

1. The Findings of Fact, Conclusions of Law, and Order of Discipline in the above referenced proceeding were entered on 15 July 2010.

2. Key was served with a copy of the Findings of Fact and Conclusions of Law and the Order of Discipline in this matter on 21 July 2010 by certified mail return receipt requested.

3. Key served and filed Notice of Appeal on 18 August 2010.

4. Under Rules 18(b)(3) and 7(a) of the Rules of Appellate Procedure, Key was required to serve upon Plaintiff a notice of arrangement with the court reporter, N. Annette P. Meyers, for preparation of the transcript or such portions of the transcript as Key intended to use for his appeal within 14 days of giving Notice of Appeal (no later than 1 September 2010). Key completed arrangements with the court reporter on 30 August 2010.

5. Under Rules 18(b)(3) and 7(b) of the Rules of Appellate Procedure, the transcript was to be delivered to the parties within 60 days after the notice of arrangements with the court reporter had been served unless the time is extended by order of the court. The transcript was delivered by the court reporter on 3 November 2010.

6. Under Rule 18(d)(2) of the Rules of Appellate Procedure, Key was required to serve on Plaintiff a proposed record on appeal within 35 days after delivery of the transcript by the court reporter. The 35th day after delivery of the transcript was 8 December 2010. To date of

this Order, Key has not served any proposed record on appeal on Plaintiff nor has Key asked for an extension of time to serve a proposed record from the DHC. More than 35 days has passed since the time when Key was required to serve his proposed record on appeal.

7. Under Rule 27(c)(1) of the Rules of Appellate Procedure, the DHC could grant no more than one 30 day extension of time for Key to serve a proposed record on appeal. More than 30 days has passed since any extension of the deadline for serving the proposed record on appeal could have been granted. Key has not responded to Plaintiff's motion to dismiss the appeal and has not filed any motions for extension of time.

Based upon the foregoing **Findings of Fact**, the Hearing Panel enters the following

Conclusions of Law

1. In accordance with Rule 25(a) of the Rules of Appellate Procedure, the Hearing Panel of the Disciplinary Hearing Commission that heard this matter is the proper tribunal to consider Plaintiff's motion to dismiss Defendant's appeal.

2. In accordance with Rule 25(a) of the Rules of Appellate Procedure, a motion to dismiss an appeal must be allowed when it appears by record and motion supported by affidavits that the appellant has failed to timely comply with the Rules of Appellate Procedure in the absence of any good cause shown by appellant.

3. As appellant, Key has failed to timely comply with the Rules of Appellate Procedure and has shown no good cause for any extension of time.

Based on the foregoing **Findings of Fact** and **Conclusions of Law**, the Hearing Panel enters the following

Order

The appeal of Mark A Key of the Order of Discipline entered in this matter on July 15, 2010, is hereby **DISMISSED** for failure to timely comply with the Rules of Appellate Procedure.

Signed by the undersigned Chair with the full knowledge and consent of the other members of the Hearing Panel.

This the 23 day of February, 2011.



Sharon B. Alexander, Chair
Hearing Panel of the Disciplinary Hearing
Commission