

NORTH CAROLINA

WAKE COUNTY

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
11G0532

IN THE MATTER OF

Robert M. Smith,
Attorney At Law

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REPRIMAND

On July 14, 2011 the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by N. P.

Pursuant to Section .0113(a) of the Discipline and Disability Rules of the North Carolina State Bar, the Grievance Committee conducted a preliminary hearing. After considering the information available to it, including your response to the letter of notice, the Grievance Committee found probable cause. Probable cause is defined in the rules as “reasonable cause to believe that a member of the North Carolina State Bar is guilty of misconduct justifying disciplinary action.”

The rules provide that after a finding of probable cause, the Grievance Committee may determine that the filing of a complaint and a hearing before the Disciplinary Hearing Commission are not required, and the Grievance Committee may issue various levels of discipline depending upon the misconduct, the actual or potential injury caused, and any aggravating or mitigating factors. The Grievance Committee may issue an admonition, a reprimand, or a censure to the respondent attorney.

A reprimand is a written form of discipline more serious than an admonition issued in cases in which an attorney has violated one or more provisions of the Rules of Professional Conduct and has caused harm or potential harm to a client, the administration of justice, the profession, or a member of the public, but the misconduct does not require a censure.

The Grievance Committee was of the opinion that a censure is not required in this case and issues this reprimand to you. As chairman of the Grievance Committee of the North Carolina State Bar, it is now my duty to issue this reprimand.

N. P. hired you in May 2010 to handle several traffic cases in Wayne, Wilson and Greene Counties. N. P.’s court date in the Wilson County case was June 18, 2010. Neither you nor Ms. P. appeared in court on June 18, and she was called and failed.

On April 23, 2011, Ms. P. was arrested for driving while her license was revoked as her license had been revoked due to her failure to appear at the June 18 hearing. Ms. P. was arrested and incarcerated for a brief time. According to Ms. P., she did not know that you had not appeared in court on June 18 and she did not know that her driver's license had been revoked until her arrest.

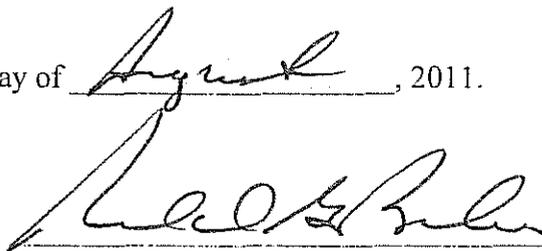
In your response to this grievance, you stated that you were on secure leave and that you had faxed a motion to continue the case to the Wilson County Clerk of Court and the Wilson County District Attorney's office. The State Bar Office of Counsel investigated this matter and learned that there was no copy of a motion to continue in the clerk's file and the DA's office had no notice of a motion to continue the case. Furthermore, you could not produce any proof that you had prepared a motion to continue.

The Grievance Committee found that your failure to appear in court on June 18 on Ms. P.'s behalf violated Rule 1.3. The Grievance Committee also found that you failed to communicate diligently with Ms. P. about the status of her case, in violation of Rule 1.4(a)(3). The Grievance Committee found as an aggravating factor that you had been reprimanded in 2011 for neglect of a client's case.

You are hereby reprimanded by the North Carolina State Bar for your professional misconduct. The Grievance Committee trusts that you will heed this reprimand, that it will be remembered by you, that it will be beneficial to you, and that you will never again allow yourself to depart from adherence to the high ethical standards of the legal profession.

In accordance with the policy adopted July 23, 2010 by the Council of the North Carolina State Bar regarding the taxing of administrative fees and investigative costs to any attorney issued a reprimand by the Grievance Committee, an administrative fee in the amount of \$350.00 is hereby taxed to you.

Done and ordered, this the 1 day of August, 2011.



Ronald G. Baker, Sr., Chair
Grievance Committee

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