

4078

FILED

NORTH CAROLINA

1977 AUG 10 AM 11:44

BEFORE THE

DISCIPLINARY HEARING COMMISSION

WAKE COUNTY

B.E. JAMES, SEC.

OF THE

THE N. C. STATE NORTH CAROLINA STATE BAR

77DHC4

THE NORTH CAROLINA STATE BAR,)
 Plaintiff)
 VS.)
 W. ARNOLD SMITH, Attorney,)
 Defendant)

FINDINGS OF FACT
 AND
 CONCLUSIONS OF LAW

This cause coming on to be heard and being heard before the undersigned hearing committee of the Disciplinary Hearing Commission of the North Carolina State Bar at a regularly scheduled hearing held on Friday, June 24, 1977, in the office of The North Carolina State Bar, 107 Fayetteville Street, Raleigh, North Carolina, and said hearing committee having heard the evidence and arguments and contentions of counsel, make the following findings of fact:

1. The plaintiff, The North Carolina State Bar, is a body duly organized under the laws of North Carolina, and is the proper party to bring this proceeding under the authority granted it in Chapter 84 of the General Statutes of North Carolina.

2. The defendant, W. Arnold Smith, is a citizen and resident of Wake County, North Carolina and was admitted to The North Carolina State Bar in 1966 and is, and was at all times relevant to this proceeding, an attorney at law licensed to practice law in the State of North Carolina and was and is subject to the rules, regulations, canons of ethics and Code of Professional Responsibility of The North Carolina State Bar and the laws of the State of North Carolina.

3. The defendant, in November of 1972, counseled with Mrs. Ann G. Bullock relative to her marital status. He knew, as did Mrs. Bullock, that she was not legally married to her purported husband, Linwood Bullock.

4. Mrs. Bullock informed the defendant that she and Mr. Bullock had been separated for over a year and that her parents and other relatives were persistently urging her to seek a final divorce. She further informed the defendant that her parents and relatives did not know that she and Mr. Bullock were, in fact, never legally married.

5. After counseling with Mrs. Bullock, the defendant advised her that he would accommodate her and proceeded to draft an instrument entitled "Consent Judgment". This document purported to be a divorce decree.

6. After preparing the document, the defendant ^{or caused to be subscribed} subscribed/an illegible name at the bottom of the document over the words "Judge Presiding".

7. Thereafter, the defendant caused the instrument to be "stamped" in at the office of the Clerk of Superior Court of Wake County, said stamp bearing the words "Filed, 1972 Dec. 22 P.M. 4:34, J. Russell Nipper, C.S.C. by, Deputy".

8. The defendant then mailed said document to Mrs. Bullock in an envelope bearing his name as an attorney and his address on the return address section.

9. That upon receipt of said document, Mrs. Bullock displayed it to at least one of her relatives as a final divorce decree filed in the Wake County Courthouse and signed by a Judge.

Based upon the foregoing findings of fact, the trial committee hereby makes the following CONCLUSIONS OF LAW:

1. The defendant, a duly licensed attorney in the State of North Carolina subject to the Code of Professional Responsibility and of the laws of the State of North Carolina prepared and caused to be circulated a false divorce decree and that such acts constitute conduct involving dishonesty, fraud, deceit, and misrepresentation; that such acts involved professional conduct prejudicial to the administration of justice and professional conduct that adversely reflects upon

his fitness to practice law, all in violation of Disciplinary Rule 1-102(A)(4)(5)(6) of the Code of Professional Responsibility of The North Carolina State Bar.

This 31st day of July, 1977.

Harold K. Bennett
Harold K. Bennett, Chairman

Warren C. Stack
Warren C. Stack

Glenn R. Jernigan
Glenn R. Jernigan

NORTH CAROLINA
WAKE COUNTY

BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
77DHC4

THE NORTH CAROLINA STATE BAR,
Plaintiff

VS.

W. ARNOLD SMITH, Attorney,
Defendant

ORDER

Based upon the findings of fact and conclusions of law entered in this case of the 31st day of July, 1977, all of which are incorporated herein by reference and pursuant to Section 9 of Article XI, Discipline and Disbarment of Attorneys, the undersigned hearing committee of the Disciplinary Hearing Commission of The North Carolina State Bar hereby issues the following Order:

IT IS HEREBY ORDERED that the defendant, W. Arnold Smith, be and he is hereby suspended from the practice of law in the State of North Carolina for a period of one year.

IT IS FURTHER ORDERED that the defendant, W. Arnold Smith, may apply for reinstatement six months from the date that his license is suspended hereunder.

IT IS FURTHER ORDERED that the defendant, W. Arnold Smith, be and he is hereby taxed with the costs of this proceeding.

This 31st day of July, 1977.

Harold K. Bennett
Harold K. Bennett, Chairman

Warren C. Stack
Warren C. Stack

Glenn R. Jernigan
Glenn R. Jernigan