

FILED

NORTH CAROLINA
WAKE COUNTY

1978 JAN -6 PM 12: 37
B.E. JAMES, SEC.
THE N.C. STATE BAR

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

THE NORTH CAROLINA STATE BAR,)
)
Plaintiff,)
)
vs.)
)
WILLIAM C. PALMER, 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 on December 9, 1977, at the offices of The North Carolina State Bar, Raleigh, North Carolina, at 11:00 o'clock a.m., the said Hearing Committee having heard the evidence, makes the following findings of fact:

1. 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 in Chapter 84, General Statutes of North Carolina.

2. The defendant, William C. Palmer, is a citizen and resident of Caldwell County, North Carolina, and was admitted to The North Carolina State Bar on September 9, 1957, and is, and was at all times relevant to this proceeding, an attorney at law licensed to practice in the State of North Carolina 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. In May of 1976 the Defendant, William C. Palmer, represented Eddie Boyden Francum in the Superior Court of Caldwell County on multiple felonious possession of drug charges. Francum entered a not guilty plea and after a jury trial was convicted of the charges and was sentenced to 13 to 15 years in prison. Francum indicated to Defendant Palmer that he wished to appeal the case and the appeal was noted in open court.

4. It was agreed between Defendant Palmer and Francum that the fee for perfecting the appeal would be \$1,500.00. On June 9, 1976, Donna Good delivered a check to Defendant Palmer in the amount of \$500.00 as partial payment on the agreed fee.

5. For approximately one month after the trial, Francum remained in the Caldwell County Jail due to his inability to make bond. During the period of time Defendant Palmer did not contact Francum either by telephone or personally.

6. Francum was then sent to Central Prison in Raleigh for safekeeping and on at least four occasions attempted to contact Defendant Palmer by letter but received no reply. Francum asked Donna Good to contact Palmer but she was also unable to do so.

7. By letter dated November 10, 1976, Francum was notified by Frances E. Dail, Clerk of the Court of Appeals of North Carolina and informed that a record on appeal had not been filed in that court.

8. The Defendant Palmer did not file the appeal in the Eddie Boyden Francum case within the time required by law and no extension of time to perfect the appeal was sought or granted. The Defendant did not seek permission of the court to withdraw from the case. The Defendant also did not contact either Eddie Boyden Francum or Donna Good as to his intention not to file the case on appeal.

9. Defendant Palmer did not contact either Eddie Francum or Donna Good about paying the balance of the fee and no part of the \$500.00 paid was returned to Eddie Francum or Donna Good.

10. After learning of the denial of his appeal, Eddie Francum retained Attorney Raymond Moose to file a petition for certiorari to the Court of Appeals. The petition was filed April 13, 1976 and denied April 26, 1976. No transcript or record was furnished to the Court of Appeals with the Writ.

11. The Stipulation signed by the parties and offered into evidence in this proceeding is hereby made a part of these Findings by reference the same as if all Stipulations were copied and set out herein verbatim.

12. Based upon the foregoing Findings of Fact, the Hearing Committee concludes that the conduct of the Defendant as set forth above constitutes a violation of Chapter 84, Section 28(B)(2) of the General Statutes of North Carolina, in that:

A. The Defendant neglected a legal matter entrusted to him by not perfecting the appeal within the time required by law, in violation of Disciplinary Rule 6-101(A)(3) of the Code of Professional Responsibility;

B. The Defendant intentionally failed to seek the lawful objectives of his client by failing to perfect the appeal to the North Carolina Court of Appeals, as he had been retained to do, in violation of Disciplinary Rule 7-101(A)(1) of the Code of Professional Responsibility;

C. The Defendant intentionally failed to carry out a contract of employment entered into with his client for professional services by failing to perfect the appeal of his client's case, in violation of Disciplinary Rule 7-101(A)(2) of the Code of Professional Responsibility;

D. The Defendant intentionally prejudiced and damaged his client by allowing the time during which the client had the right to appeal to lapse, in violation of Disciplinary Rule 7-101(A)(3) of the Code of Professional Responsibility;

E. The Defendant withdrew from employment without obtaining permission from the Court in violation of Disciplinary Rule 2-110(A)(1) of the Code of Professional Responsibility;

F. The Defendant withdrew from employment without taking reasonable steps to avoid foreseeable prejudice to the rights of his client by not giving due notice to his client, in violation of Disciplinary Rule 2-110(A)(2) of the Code of Professional Responsibility;

G. The Defendant engaged in professional conduct that was prejudicial to the administration of justice in violation of Disciplinary Rule 1-102(A)(5) of the Code of Professional Responsibility;

13. The conduct of the defendant as set forth above does not constitute a violation of North Carolina General Statute 84-28(B)(2) in that The North Carolina State Bar failed to show that:

A. The Defendant had not allowed time for the employment of other counsel and had not delivered to the client papers or property to which the client was entitled in violation of Disciplinary Rule 2-110(A)(2) of the Code of Professional Responsibility;

B. The Defendant did not refund the part of the fee he had not earned, in violation of Disciplinary Rule 2-110(A)(3) of the Code of Professional Responsibility;

C. The Defendant engaged in professional conduct that adversely reflects upon his fitness to practice law in violation of Disciplinary Rule 1-102(A)(6).

This the 9 day of January, 1978.

Harold K. Bennett
HAROLD K. BENNETT, Chairman

Emery B. Denny, Jr.
EMERY B. DENNY, JR.

R. Powell Majors
R. POWELL MAJORS

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THE NORTH CAROLINA STATE BAR,)
)
Plaintiff,)
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vs.)
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WILLIAM C. PALMER, Attorney,)
)
Defendant,)

ORDER OF PUBLIC CENSURE

This cause coming on to be heard and being heard before the undersigned trial committee of the Disciplinary Hearing Commission of The North Carolina State Bar on December 9, 1977, in the office of The North Carolina State Bar, 107 Fayetteville Street Mall, Raleigh, North Carolina, at 11 o'clock a.m., and

The Plaintiff represented by its counsel, M. Bays Shoaf, Jr. and the Defendant appearing in his own behalf, and the trial committee having heard the evidence and argument of counsel, and having made certain findings of fact and conclusions of law, all appearing of record herein;

NOW, THEREFORE, based upon such findings of fact and conclusions of law, the trial committee of the Disciplinary Hearing Commission hereby issues the following Order of Public Censure to William C. Palmer, Attorney:

Pursuant to Section 23 of the Discipline and Disbarment Procedures of The North Carolina State Bar this Public Censure is delivered to you. You have been found to have violated the Code of Professional Responsibility of The North Carolina State Bar by a hearing committee of the Disciplinary Hearing Commission sitting on December 9, 1977.

The fact that this Public Censure is not the most serious of possible discipline provided for in General Statutes 84-28, should not be taken by you to indicate that The North Carolina State Bar in any way feels that your conduct in this

matter was excusable or was considered by the members of the trial committee of the Disciplinary Hearing Commission to be any less than a very serious and substantial violation of the Code of Professional Responsibility.

In your representation of Eddie Boyden Francum you intentionally failed to file an appeal to the North Carolina Court of Appeals. By doing that you not only neglected a legal matter entrusted to you but you intentionally failed to seek the lawful objectives of your client and failed to carry out a contract of employment for your professional services. You intentionally prejudiced and damaged your client by allowing the time in which your client had the right to appeal to lapse. You withdrew from employment without permission from the court and without taking reasonable steps to avoid foreseeable prejudice to the rights of your client by not giving him due notice. Your conduct was prejudicial to the administration of justice. This conduct is a direct violation of the Code of Professional Responsibility and in addition is a reflection upon you and the entire Bar of this State. Your conduct was unprofessional. It violated not only the letter but also the spirit of the Code of Professional Responsibility of The North Carolina State Bar. It was not such conduct as is expected of a member of the legal profession. It brings discredit upon you and tends to place the courts of this state and your fellow members of the Bar in disrepute and further damages both in the eyes of the public.

Failure of attorneys to represent clients within the law and within the bounds of the Code of Professional Responsibility is the most serious complaint against our profession, and your failure to represent Eddie Boyden Francum adequately was your error here. You placed a privilege that you hold as a lawyer to serve the public in serious jeopardy.

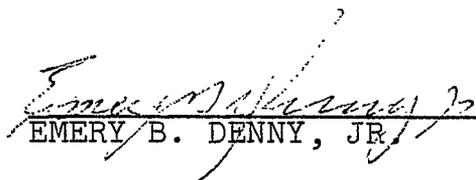
The North Carolina State Bar is confident that this Public Censure will be heeded by you, that it will be remembered by you, and that it will be beneficial to you. We are confident

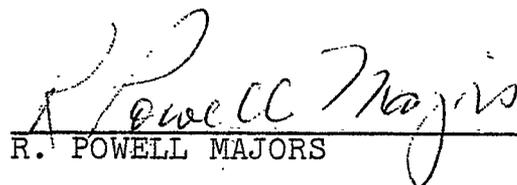
that you will never again allow yourself to depart from strict adherence to the highest standards of the legal profession. Accordingly, we sincerely trust that this Public Censure, instead of being a burden, will actually serve as a profitable reminder to weigh carefully your responsibility to the public, your clients, your fellow attorneys, and the courts, with the result that you will be known as a respected member of our profession whose word and conduct may be relied upon without question.

Pursuant to Section 23 of the Rules of Disciplinary Procedure, it is ordered that a certified copy of this Public Censure be entered upon the judgment docket of the Superior Court of Caldwell County and also upon the minutes of the Supreme Court of North Carolina.

Issued this 9 day of January, 1978.


HAROLD K. BENNETT, Chairman


EMERY B. DENNY, JR.


R. POWELL MAJORS