

NORTH CAROLINA

WAKE COUNTY

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B.E. JAMES, SEC.
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BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
79 DHC 13

THE NORTH CAROLINA STATE BAR,)
 Plaintiff,)
)
 -vs-)
)
 JEROME PAUL, Attorney,)
 Defendant.)

FINDINGS OF FACT
 AND
CONCLUSIONS OF LAW

THIS CAUSE coming on to be heard before the undersigned Hearing Committee of the Disciplinary Hearing Commission of The North Carolina State Bar on November 9, 1979, in the office of The North Carolina State Bar, 208 Fayetteville Street Mall, Raleigh, North Carolina at 10:00 a.m., and said Hearing Committee, proceeding under Section 14(6) of Article IX of the Rules and Regulations of The North Carolina State Bar makes the following findings of fact:

1. That 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, and the Rules and Regulations of The North Carolina State Bar promulgated thereunder.

2. The Defendant, Jerome Paul, was admitted to the North Carolina State Bar in September, 1968, and is and was at all times referred to herein, an Attorney at Law, licensed to practice law in the State of North Carolina, subject to the Rules, Regulations, Canons of Ethics and Code of Professional Responsibility of The North Carolina State Bar and of the laws of the State of North Carolina.

3. At and during all of the times hereinafter referred to, the Defendant was actively engaged in the practice of law in the State of North Carolina and maintained a law office in the City of Durham, Durham County, North Carolina. Subsequent to the time hereinafter referred to, Defendant moved his residence to the State of New York and resides at 120 Haven Avenue, Apartment 54, New York City, New York.

4. On August 6, 1979, a Summons and Complaint was served on the Defendant alleging misconduct on his part in violation of the Code of Professional Responsibility and the North Carolina General Statutes.

Service was accomplished by causing delivery of a copy of the Summons and Complaint to the Defendant by United States Mail, registered, return receipt requested with restricted delivery. Defendant accepted service on August 14, 1979 as evidenced by a postal receipt signed by the Defendant and returned to the offices of The North Carolina State Bar.

5. No Answer or other pleading was filed by the Defendant or by an attorney on his behalf within the time prescribed by the Rules and Regulations of The North Carolina State Bar and as set forth in the "Summons and Notice" duly served upon him.

6. A "Notice of Hearing" was sent to the Defendant via the United States Mail by Mr. Harold Bennett, Chairman of the Disciplinary Hearing Commission on August 24, 1979, notifying the Defendant of the time and place of the Hearing and the composition of the Hearing Committee; said Notice was sent by United States Mail, directed to the Defendant at the same address which appeared on the Summons and Complaint, to wit: 120 Haven Avenue, Apartment 54, New York City, New York.

7. This matter came on for Hearing as set forth in the Notice of Hearing on November 9, 1979; neither the Defendant nor anyone on his behalf appeared; upon a verified Motion for Entry of Default filed by Plaintiff, default was entered in the cause pursuant to Section 14(6) of Article IX of the Rules and Regulations of The North Carolina State Bar.

8. Prior to proceeding further in the cause, counsel for Plaintiff brought to the attention of the Committee a letter from a Dr. Teich addressed "To Whom It May Concern" advising that the Defendant was under his care and had been since May, 1979; this letter was not directed to counsel for Plaintiff but was obtained by coincidence by a member of the State Bar staff while monitoring a case in Wake County Superior Court; after hearing evidence from witnesses who have observed the Defendant over the past six (6) months, it was found that the Defendant is not suffering a disability nor is he incompetent to appear in the case now before the Committee.

Although by Defendant's default, the allegations contained in the Complaint are hereby found to be admitted, the Hearing Committee, heard evidence and makes the additional findings of fact:

9. On or about August 3, 1976, the Defendant was employed to represent Gilbert Persell in an effort to have Mr. Persell's criminal conviction of voluntary manslaughter reviewed by the North Carolina Supreme Court; Mr. Persell had been convicted in Harnett County; he

was represented at the trial and on appeal to the Court of Appeals by Mr. D. K. Stewart of the Harnett County Bar; in July, 1976, the Court of Appeals affirmed Mr. Persell's conviction and he was thereafter incarcerated; Mr. Persell thereafter instructed his grandson, Mr. Van Tee Thompson, to seek out and attempt to employ the services of the Defendant.

10. On August 3, 1976, after conferring with the Defendant, Mr. Van Tee Thompson met the Defendant at Central Prison where his grandfather was incarcerated and paid the defendant \$500.00 in cash for which he received a receipt; thereafter Mr. Thompson delivered to the Defendant a transcript of Mr. Persell's case along with various documents and orders.

11. The Defendant accepted employment and advised Mr. Persell and Mr. Thompson that he would forthwith file the necessary papers with the Supreme Court in order that it might review Mr. Persell's case.

12. At the meeting on August 3, 1976, the Defendant advised Mr. Persell and Mr. Thompson that he needed an additional \$300.00; these funds were delivered to him in the form of two postal money orders from between fifteen to thirty days after the payment of \$500.00 on August 3, 1976.

13. Thereafter, over a period of eighteen to twenty months, Mr. Van Tee Thompson and his grandmother, Lavetta Persell, visited the Defendant's office in an effort to determine what, if anything, the Defendant was doing on Mr. Persell's behalf; after fifty to sixty unsuccessful attempts to see the Defendant, Mr. Gilbert Persell instructed his grandson to discharge Mr. Paul and employ the services of another attorney.

14. On his last visit to Defendant's office, Mr. Van Tee Thompson confronted the Defendant and advised him that he was discharged and demanded a return of the fee and the file which he had previously delivered to him; the Defendant refunded \$400.00 of the \$800.00 fee and promised to refund an additional \$250.00, advising Mr. Thompson that he would retain \$150.00 as a fee for services performed; Mr. Thompson did not agree to this, but accepted the \$400.00 and advised the Defendant that he wanted the entire amount of the fee refunded; no part of the remaining balance of the fee has been returned to Mr. Thompson or Mr. Gilbert Persell.

15. Thereafter the services of Mr. Russell DeMent, Attorney at Law, were retained and the file and a portion of the transcript delivered to him; it was then learned that the Defendant had delivered only approximately one half of the transcript and after some effort a transcript was purchased.

16. Upon inquiry by Mr. DeMent, it was determined that the Defendant had filed nothing with the North Carolina Supreme Court; after obtaining the complete copy of the transcript, Mr. DeMent filed a Petition for Discretionary Review on January 18, 1978; Certiorari was allowed on March 7, 1978 and within a few days bond was allowed on Mr. Gilbert Persell and he was released from custody; thereafter the matter was heard in Supreme Court and Mr. Persell's prior conviction was overturned and a new trial was ordered. As a result a bargain was struck with the District Attorney upon re-trial, Mr. Persell entered a plea of guilty to manslaughter and his sentence was that he be confined for the time that he had previously served, and he was immediately freed.

17. As a result of the Defendant's failure to act on Mr. Persell's behalf and thereafter his failure to furnish a full and complete file which had been delivered to him, Mr. Persell remained incarcerated for a period of approximately eighteen months.

18. Prior to a finding of probable cause by the Grievance Committee and pursuant to Section 12 of the Rules and Regulations of The North Carolina State Bar, the Chairman of the Grievance Committee caused a "Letter of Notice" to be delivered to the Defendant advising him of the grievance filed against him and requiring him to respond within 15 days of the receipt thereof. This "Letter of Notice" is a formal inquiry of the North Carolina State Bar and was delivered to the Defendant by registered mail, return receipt requested on June 19, 1978. Defendant failed to respond to the "Letter of Notice" in any manner.

Based upon the foregoing findings of fact, the Hearing Committee makes the following conclusions of law:

1. The conduct of the Defendant as set forth above constitutes a violation of North Carolina General Statute 84-28(a) (b) (2), in that:

(a) The Defendant neglected a legal matter entrusted to him by failing to seek Appellate Review of his client's case, in violation of Disciplinary Rule 6-101(A) (3) of the Code of Professional Responsibility of The North Carolina State Bar.

(b) The Defendant intentionally failed to seek the lawful objectives of his client by failing to seek Appellate Review of his client's case, as he had been paid to do, in violation of Disciplinary Rule 7-101(A) (2) of said 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).

2. The conduct of the Defendant as set forth in Paragraph 18 above constitutes an additional violation of North Carolina General Statute 84-28(a) (b) (3), in that he failed to answer a formal inquiry issued in the name of The North Carolina State Bar in a disciplinary matter.

This the 21st day of January, 1980.

E. James Moore

E. James Moore, Chairman
Disciplinary Hearing Committee
North Carolina State Bar

Mary Cecile Bridges

Mary Cecile Bridges

Dudley Humphrey

Dudley Humphrey

NORTH CAROLINA

WAKE COUNTY

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

THE NORTH CAROLINA STATE BAR,)
Plaintiff,)
vs)
JEROME PAUL, Attorney,)
Defendant.)

Entry of Default

WHEREAS, it has been made to appear to the undersigned Hearing Committee of the Disciplinary Hearing Commission of The North Carolina State Bar upon Motion duly filed by the office of Counsel of The North Carolina State Bar:

1. The North Carolina State Bar filed its Complaint in this cause on August 6, 1979;
2. The Summons and a copy of the Complaint were served on the Defendant on August 14, 1979 by the delivery of said Summons and Complaint by the United States postal authorities to the Defendant and his acceptance of the same as evidenced by the United States postal service return receipt, a copy of which was attached to Counsel's Motion filed herein;
3. More than TWENTY (20) days has elapsed since service of the Complaint and Summons and the Defendant has failed to file an Answer or otherwise plead to the allegations contained in the Complaint;
4. The Defendant, although duly notified of the composition of the Hearing Committee and the time, date, and place of the Hearing has failed to make any appearance in this action; and

WHEREAS, the Defendant is neither an infant nor incompetent, and

WHEREAS, this Hearing Committee has personal jurisdiction over the Defendant under the provisions of Chapter 84 of the General Statutes of North Carolina and Article IX of the Rules and Regulations of the North Carolina State Bar, and

WHEREAS, Counsel for The North Carolina State Bar has filed a timely Motion for Entry of Default,

NOW, THEREFORE, default is hereby entered against Jerome Paul, the Defendant in this action as provided by Section 14(6), Article IX of The Rules and Regulations of The North Carolina State Bar.

This the 21st day of November, 1979.

E. James Moore

E. James Moore, Chairman
Disciplinary Hearing Committee
The North Carolina State Bar

Dudley Humphrey

D. Dudley Humphrey

Mary Cecile Bridges

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THE NORTH CAROLINA STATE BAR,)
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Defendant.)

ORDER

BASED UPON the Findings of Fact and Conclusions of Law entered in this cause and pursuant to Article IX, of the Rules and Regulations of The North Carolina State Bar, "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, Jerome Paul, be and he is hereby suspended from the practice of law in the State of North Carolina for a period of two (2) years commencing November 9, 1979.

IT IS FURTHER ORDERED that Jerome Paul be taxed with the costs of this Hearing.

This the 21st day of January, 1980.

E. James Moore
E. James Moore, Chairman
Disciplinary Hearing Committee
North Carolina State Bar

Mary Cecile Bridges
Mary Cecile Bridges

Dudley Humphrey
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