

NORTH CAROLINA
DURHAM COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
FILE NO: 81-CRS-19910

STATE OF NORTH CAROLINA
Plaintiff

vs.

THOMAS CARTER
Defendant

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STIPULATION
RE: William M. Sheffield, Attorney

William Sheffield, not as a result of coercion, duress or promise as to result, and after consultation with Counsel of his choice, William A. Graham, III, freely and voluntarily enters into the following Stipulation, with A. Root Edmonson representing The North Carolina State Bar.

FINDINGS OF FACT

1. Defendant, Thomas Carter, was tried for and convicted of Second Degree Murder in file number 81 CRS 19910. Judgment was entered and sentence was imposed on or about March 2, 1982 at which time Notice of Appeal was given in open court.
2. William Sheffield, having represented the Defendant at trial, was appointed by the Court to perfect Defendant's appeal, the Defendant being indigent.
3. William Sheffield did not file a record on appeal, on Defendant's behalf, with the Clerk of the Court of Appeals within the time required by Rule 12(a) of the Rules of Appellate Procedure.

William Sheffield did not file any motion for extension of time for filing the record on appeal either in Durham County Superior Court or in the North Carolina Court of Appeals.

4. Defendant, without the assistance of William Sheffield, filed a Petition for Certiorari in the Court of Appeals on September 14, 1982.
5. By Order of September 30, 1982, the Court of Appeals remanded the matter to Durham County Superior Court to determine, among other things, whether William Sheffield should be discharged and new counsel appointed for the Defendant.
6. By Order signed November 5, 1982, Judge D. B. Herring found, among other things, that the Court had been shown no cause or reason, whether justified or unjustified, for William Sheffield's failure to perfect the appeal. William Sheffield had not attended the hearing which resulted in the Order due to illness. This Order was certified to the North Carolina Court of Appeals.
7. By Order of December 8, 1982, the North Carolina Court of Appeals directed the Senior Resident Superior Court Judge to cause a hearing to be conducted to determine whether there was just cause for William Sheffield's apparent dereliction of duty. The Order directed the Superior Court Judge conducting the hearing to take such action with respect to William Sheffield as he deemed appropriate if no just cause was found to exist for the dereliction of his duty.
8. Pursuant to the Order from the North Carolina Court of Appeals, the Senior Resident Superior Court Judge for the Fourteenth Judicial District issued a Show Cause Order dated January 7, 1983, giving William Sheffield notice of the time and place for a hearing and the nature of the inquiry.
9. The hearing in this matter was continued until March 28, 1983, with William Sheffield's consent, for the purpose of preparing this Stipulation.

10. William Sheffield can show no just cause for the dereliction of his duty to perfect the appeal of Thomas Carter. William Sheffield was aware of his appointment by the Court to perfect the appeal and has no excuse for failure to do so.
11. William Sheffield never served a proposed record on appeal upon the Assistant District Attorney responsible for the case, Mike Nifong, or any other person in the District Attorney's office.
12. Other than an initial request for an extension of time for reason that the transcript was not yet completed which resulted in a June 3, 1982 Order Extending Time to Prepare the Record on Appeal for thirty (30) days, William Sheffield never made a request, either formally or informally, to Mike Nifong, the Superior Court Judge who presided at the trial of the Defendant, or the North Carolina Court of Appeals for an extension of time to prepare a proposed record on appeal.
13. William Sheffield never discussed withdrawing the appeal with his client, Thomas Carter. Thomas Carter never authorized William Sheffield to cease activity on his appeal.
14. William Sheffield never made a request to the Court to withdraw from representation of Thomas Carter on appeal.
15. William Sheffield was similarly removed as Counsel on appeal for an indigent Defendant, Samuel Lee Bell, by Order of December 15, 1978 when he failed to timely file and serve a proposed record on appeal within the required time and failed to seek an extension of time to perfect the appeal in file number 77 CRS 20690. A copy of said Order is attached hereto as Exhibit "A" and is incorporated by reference as if fully set out herein.

16. William Sheffield was similarly removed as Counsel on Appeal for an indigent Defendant, Rickey Dan Perry, by Order of December 15, 1978 when he failed to timely file and serve a proposed record on appeal with the Clerk of the Supreme Court within the time required and failed to seek further extensions of time to do so after an initial extension of time had expired in files numbered 77 CRS 6070, 7824, 7825 and 7826. A copy of said Order is attached hereto as Exhibit "B" and is incorporated by reference as if fully set out herein.

17. As a result of these two previous incidents of failure to perfect appeals, and for one other case of neglect, William Sheffield was issued a Private Reprimand by the Grievance Committee of The North Carolina State Bar subsequent to the Committee's deliberations on these matters at its meeting on January 16, 1980. William Sheffield received the Private Reprimand on February 22, 1980 and elected not to reject the Reprimand and request a hearing on these matters. A certified true copy of said Private Reprimand is attached hereto as Exhibit "C" and is incorporated by reference as if fully set out herein.

CONCLUSIONS OF LAW

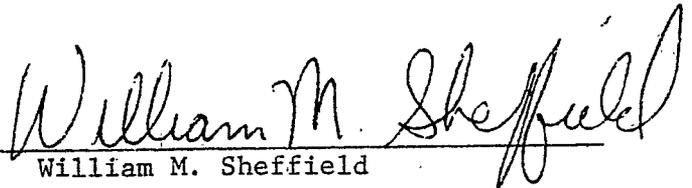
1. William Sheffield has shown no just cause for his dereliction of duty to his client, Thomas Carter, to perfect Carter's appeal to the North Carolina Court of Appeals in file number 81 CRS 19910.
2. Pursuant to the Order of The North Carolina Court of Appeals dated December 8, 1982, the inherent powers of this Court and North Carolina General Statutes § 84-36, the Superior Court Judge Presiding in this matter has jurisdiction to impose appropriate disciplinary

sanctions upon William Sheffield for his dereliction of duty in this matter.

3. This Court may consider the above-mentioned past incidents of the failure of William Sheffield to perform his duty to past clients in reaching an appropriate disciplinary sanction to impose in this matter.

4. Based upon this Stipulation of FINDINGS OF FACT and CONCLUSIONS OF LAW, the Superior Court Judge hearing this matter may enter an Order of Discipline imposing such disciplinary sanctions upon William Sheffield as he deems appropriate.

This the 28 day of March, 1983.



William M. Sheffield



William A. Graham, III
Attorney for William M. Sheffield



A. Root Edmonson, Counsel
The North Carolina State Bar

STATE OF NORTH CAROLINA
DURHAM COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
File # 81 CRS 19910

STATE OF NORTH CAROLINA,
Plaintiff
vs.
THOMAS CARTER,
Defendant

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ORDER
RE: William M. Sheffield, Attorney

THIS MATTER coming on to be heard and being heard by the undersigned Superior Court Judge, with William M. Sheffield being present, being heard and being represented by William A. Graham, III; and with A. Root Edmonson representing The North Carolina State Bar; and

It appearing that this Court has jurisdiction over William M. Sheffield and the subject matter to enter this Order; and

Based upon the Stipulation entered into on this date by William M. Sheffield, William A. Graham, III and A. Root Edmonson, which Stipulation is incorporated herein by reference as the Findings of Fact and Conclusions of Law of this Court.

NOW, THEREFORE, IT IS ORDERED:

1. That William M. Sheffield is hereby suspended from practice before the Appellate Courts of the State of North Carolina for a period of one year from this date, and that he is hereby suspended from practice before any of the Courts of the State of North Carolina for a period of sixty days from this date.
2. That William M. Sheffield's name be removed from the list of attorneys available for appointment as assigned counsel for indigent defendants and William M. Sheffield be and hereby is prohibited from representing any indigent defendant as appointed counsel for at least one year from this date. After the expiration of one year, should William M. Sheffield desire to again make himself available to represent indigent

defendants as appointed counsel, he must make application for reinstatement to the list of attorneys available for appointment to represent indigent defendants to the Senior Resident Superior Court Judge for the Fourteenth Judicial District.

3. William M. Sheffield is hereby removed from all case in which he is currently serving as appointed counsel for an indigent defendant. William M. Sheffield should immediately take such steps as necessary to insure that he is removed as counsel of record in any such pending case and to make sure that the Court is made aware that new counsel needs to be appointed for each such indigent defendant.
4. That a copy of the Stipulation and a copy of this Order be certified to the Clerk of the North Carolina Court of Appeals and to the Clerk of the North Carolina Supreme Court.

This the 28th day of March, 1983.


Honorable Giles R. Clark, Judge