

7634

NORTH CAROLINA
WAKE COUNTY

FILED

1984 DEC -6 AM 9:25

BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
84 DHC 7

B.H. JAMES, SEC.
THE N.C. STATE BAR

THE NORTH CAROLINA STATE BAR,)
Plaintiff)
vs.)
JAMES E. BROWN,)
Defendant)

FINDINGS OF FACT AND
CONCLUSIONS OF LAW

This matter coming on to be heard and being heard on November 16, 1984 before the Hearing Committee composed of George Ward Hendon, Chairman; Robert W. Wolf, and John W. Beach; with James E. Brown not appearing and A. Root Edmonson appearing for the North Carolina State Bar; and based upon the Default of Defendant for his failure to Answer in this action and the evidence offered at the hearing, the Hearing Committee finds the following by clear, cogent, and convincing evidence:

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, and the Rules and Regulations of the North Carolina State Bar promulgated thereunder.
2. The Defendant, James E. Brown, was admitted to the North Carolina State Bar on September 6, 1977, 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, and Code of Professional Responsibility of the North Carolina State Bar and the laws of the State of North Carolina, except that he was suspended for nonpayment of dues by Order dated, November 18, 1983.
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 Greenville, Pitt County, North Carolina, until such time that he moved to South Carolina as hereinafter alleged.

4. The Complaint in this action was filed on August 27, 1984.
5. The Summons and Notice was issued at 11:00 a.m. on August 27, 1984 by B. E. James, Secretary of the North Carolina State Bar.
6. A Return of Service by Certified Mail was filed on or about September 6, 1983 showing that process was in fact received by James E. Brown on August 30, 1984.
7. Additional Affidavits of Service were filed on October 16, 1984 by postal carrier Eloise T. Raines and postmaster J. L. Jeffcoat of the Blythewood, South Carolina Post Office showing actual service of process upon James E. Brown.
8. The Defendant has not filed an Answer or other pleading in this action.
9. The Secretary entered the Default of the Defendant on October 17, 1984.

As pertains to the First Claim for Relief set out in the Complaint, the Hearing Committee makes the following FINDINGS OF FACT:

10. Defendant was retained by Doris Moore Green in the summer of 1980 in a domestic matter. Defendant agreed to a fee of one-hundred dollars (\$100) for his representation.
11. Doris Moore Green paid Defendant fifty dollars (\$50) on or about June 29, 1980 towards his fee.
12. Doris Moore Green returned to Defendant's office on or about August 22, 1980, signed the papers Defendant had prepared and paid Defendant the remaining fifty dollars (\$50) owed.
13. Defendant advised Doris Moore Green that he had mailed the papers to Ms. Green's husband in New York.
14. In December, 1981, Defendant advised Ms. Green that he had received no response from Ms. Green's husband and would file the matter in court.
15. Doris Moore Green could not ascertain the status of her case from Defendant during 1982 and 1983. Sometime during 1983, Defendant moved and Ms. Green could no longer contact him.

16. Doris Moore Green found that Defendant had neglected to file her case with the court.

Based upon the foregoing Findings of Fact pertaining to the First Claim for Relief set out in the Complaint, the Hearing Committee makes the following CONCLUSIONS OF LAW:

Defendant's conduct as set out in paragraphs 10 through 16 above constitutes grounds for discipline pursuant to N.C.G.S. §84-28(a) and (b)(2) in that the Defendant violated the Disciplinary Rules of the Code of Professional Responsibility as follows:

(a) By accepting payment from Doris Green Moore to complete her domestic case and failing to pursue the matter to its conclusion, Defendant neglected a legal matter entrusted to him in violation of DR6-101(A)(3).

(b) By accepting payment from Doris Moore Green to complete her domestic case and failing to pursue the matter to its conclusion, Defendant failed to seek the lawful objectives of his client through reasonably available means and failed to carry out a contract of employment entered into with a client for professional services in violation of DR 7-101(A)(1), and (2).

As pertains to the Second Claim for Relief as set out in the Complaint, the Hearing Committee makes the following FINDINGS OF FACT:

17. A Letter of Notice was sent to Defendant at his last address of record requesting a response to the allegations in the First Claim for Relief by the Chairman of the Grievance Committee on April 2, 1984 by certified mail.
18. The Letter of Notice was returned unserved on April 18, 1984.
19. The Letter of Notice was sent to Defendant at a South Carolina address by certified mail and received by Defendant on April 31 [sic], 1984.
20. Defendant has failed to respond to the Letter of Notice.

Based upon the foregoing Findings of Fact pertaining to the Second Claim for Relief as set out in the Complaint, the Hearing Committee makes the following CONCLUSIONS OF LAW:

Defendant's conduct as set out in paragraphs 17 through 20 above constitutes grounds for discipline pursuant to N.C.G.S. §84-28(a) and (b)(3) in that Defendant failed to answer a formal inquiry issued in the name of the North Carolina State Bar in a disciplinary matter when he failed to respond to a Letter of

Notice issued by the Chairman of the State Bar's Grievance Committee.

As pertains to the Third Claim for Relief as set out in the Complaint, the Hearing Committee makes the following FINDINGS OF FACT:

21. On November 3, 1983, Hercules A. Davis, Sr. sent Defendant one hundred dollars (\$100) by money order to represent Davis in a legal matter.
22. Defendant provided no legal services to Hercules A. Davis, Sr. for the one hundred dollars (\$100) paid Defendant and Defendant has not communicated with Hercules A. Davis, Sr. since he has been paid.

Based upon the foregoing Findings of Fact pertaining to the Third Claim for Relief, the Hearing Committee makes the following CONCLUSIONS OF LAW:

Defendant's conduct as set out in paragraphs 21 and 22 above constitutes grounds for discipline pursuant to N.C.G.S. §84-28(a) and (b)(2) in that Defendant violates Disciplinary Rules of the Code of Professional Responsibility as follows:

(a) By accepting payment from Hercules A. Davis, Sr. to perform legal services and neglecting to perform said legal services, Defendant neglected a legal matter entrusted to him in violation of Disciplinary Rule 6-101(A)(3).

(b) By accepting payment from Hercules A. Davis, Sr., to perform legal services and neglecting to perform said legal services, Defendant failed to seek the lawful objectives of his client through reasonably available means and failed to carry out a contract of employment entered into with a client for professional services in violation of DR 7-101(A)(1) and (2) respectively.

As pertains to the Fourth Claim for Relief as set out in the Complaint, the Hearing Committee makes the following FINDINGS OF FACT:

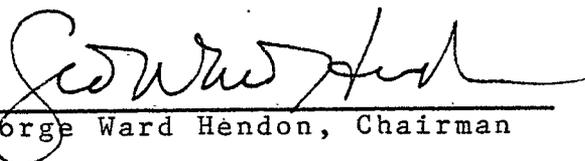
23. A letter of Notice was sent to Defendant at his last address of record requesting a response to the allegations in the Third Claim for Relief by the Chairman of the Grievance Committee on April 2, 1984 by certified mail.
24. The Letter of Notice was returned unserved.
25. The Letter of Notice was sent to Defendant at a South Carolina address by certified mail and was received by Defendant on April 31 [sic], 1984.

26. Defendant has failed to respond to the Letter of Notice.

Based upon the foregoing Findings of Fact pertaining to the Fourth Claim for Relief as set out in the Complaint, the Hearing Committee makes the following CONCLUSIONS OF LAW:

Defendant's conduct as set out in paragraphs 23 through 26 above constitutes grounds for discipline pursuant to N.C.G.S. §84-28(a) and (b)(3) in that Defendant failed to answer a formal inquiry issued in the name of the North Carolina State Bar in a disciplinary matter when he failed to respond to a Letter of Notice issued by the Chairman of the State Bar's Grievance Committee.

Signed by the undersigned Chairman with the full accord and consent of the other members of the Hearing Committee this the 5th day of December, 1984.


George Ward Hendon, Chairman

NORTH CAROLINA
WAKE COUNTY

BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR

FILED
1984 DEC -6 AM 9:26

84 DHC 7

J.E. JAMES, SEC.
STATE BAR

THE NORTH CAROLINA STATE BAR,)
Plaintiff)

vs.)

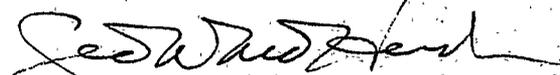
JAMES E. BROWN,)
Defendant)

ORDER OF DISCIPLINE

This matter coming on to be heard and being heard on November 16, 1984 before the Hearing Committee composed of George Ward Hendon, Chairman, Robert W. Wolf, and John W. Beach; and based upon the Findings of Fact and Conclusions of Law entered by this Hearing Committee of even date herewith; and further based upon the evidence of prior discipline introduced at the hearing, the Hearing Committee enters the following ORDER OF DISCIPLINE:

1. The Defendant, James E. Brown is suspended from the practice of law in North Carolina for three years from the effective date of this Order.
2. The Defendant, James E. Brown shall surrender his license and membership card to the Secretary of the North Carolina State Bar.
3. As a condition precedent to reinstatement, the Hearing Committee Orders the Defendant, James E. Brown to pay as follows:
 - (a) restitution to Doris Moore Green in the amount of one hundred dollars (\$100);
 - (b) restitution to Hercules A. Davis, Sr. in the amount of one hundred dollars (\$100);
 - (c) all costs of this hearing, including the costs of the court reporter, plus the necessary expenses of the members of the hearing panel as certified by the Secretary.

Signed by the Undersigned Chairman with the full accord and consent of the other members of the Hearing Committee this the 5th date of December, 1984.


George Ward Hendon, Chairman