

NORTH CAROLINA  
WAKE COUNTY

BEFORE THE  
DISCIPLINARY HEARING COMMISSION  
OF THE  
NORTH CAROLINA STATE BAR  
85 DHC 5

THE NORTH CAROLINA STATE BAR, )  
Plaintiff )  
vs. )  
HORACE LOCKLEAR, )  
Defendant )

STIPULATED  
FINDINGS OF FACT AND  
CONCLUSIONS OF LAW

This cause was heard by the undersigned members of a duly appointed Hearing Committee of the Disciplinary Hearing Commission on Friday, April 26, 1985. The North Carolina State Bar was represented by David R. Johnson. The Defendant represented himself, pro se. The parties presented stipulated Findings of Fact and Conclusions of Law. The Hearing Committee accepts the Stipulations of the parties and adopts them as its own. Based on the Stipulations of the parties, the Hearing Committee makes the following FINDINGS OF FACT:

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

2. The Defendant, Horace Locklear, was admitted to the North Carolina State Bar on August 28, 1972 and is, and was at all times referred to herein, an Attorney at Law licensed to practice in North Carolina, subject to the rules, regulations, and Code of Professional Responsibility of the North Carolina State Bar and of the laws of the State of North Carolina.

3. During all of the periods referred to herein, the Defendant was actively engaged in the practice of law in the State of North Carolina and he maintained a law office in the City of Lumberton, Robeson County, North Carolina, until sometime after January, 1983.

4. In June, 1982, Maurice Gaddy employed the Defendant to represent him in obtaining a divorce and setting an amount for child support. The Defendant filed a Complaint on behalf of Mr. Gaddy on June 22, 1982, requesting an absolute divorce and an award of custody of the two children to Charlene Leake Gaddy, his estranged wife and the mother of the children, along with support payments.

5. In October, 1982, Mr. Gaddy paid the Defendant \$200.00 for the Defendant's services.

6. In November, 1982, Mrs. Gaddy filed an Answer to the Complaint after employing legal counsel and contested the amount of child support and method of payment.

7. The matter was calendared for hearing in the District Court of Robeson County on January 11, 1983. A compromise was reached on the issue of the amount of child support. Mr. Gaddy agreed to pay Mrs. Gaddy's attorney's fee and \$300.00 per month in child support. The Defendant was responsible for drafting the consent judgment for approval by the court.

8. The court records containing the Complaint filed by the Defendant on behalf of Maurice Gaddy and subsequent pleadings of the parties and orders of the court are recorded in the Robeson County Clerk of Court's Office as file number 82 CVD 1081.

9. The presiding judge at the January 11, 1983, hearing resulting in the consent judgment in Robeson County file number 82 CVD 1081 was Herbert L. Richardson.

10. Mrs. Gaddy was represented by T. Lawson Newton, an attorney from Winston-Salem, North Carolina. After the January 11, 1983, hearing, Mr. Newton wrote to the Defendant asking the Defendant the status of the preparation and filing of the Consent Judgment on three separate occasions, February 1, 1983; April 8, 1983; and January 24, 1984. The Defendant received these letters but did not respond to Mr. Newton.

11. On November 3, 1983, Judge John S. Gardner, Chief District Court Judge of the 16th Judicial District, entered an Order retiring the Robeson County file number 82 CVD 1081 file to the closed files for the failure of the Defendant to prepare the Court's Judgment pursuant to his responsibility to the Court. The order was filed on February 2, 1984. The Defendant received a court calendar indicating that the matter was to be heard on a clean-up calendar scheduled for January 31, 1984, but did not appear in court that day.

12. The Defendant did not deliver the consent judgment for entry by the court until May 8, 1984.

13. On May 25, 1984, Yvonne Britt, as Assistant Clerk of Court in Robeson County advised the Defendant that the judgment sent by the Defendant on May 8, 1984, had been misplaced and

another copy needed to be sent. The Defendant sent a second Consent Judgment which was received by the court on June 20, 1984.

14. Judge Richardson refused to sign and enter the Consent Judgment because he could not remember the case or what was ordered because of the passage of time.

15. On October 5, 1984, the Defendant received a Letter of Notice from the Chairman of the Grievance Committee summarizing a grievance filed by Maurice Gaddy concerning the facts as described in paragraphs 4 through 8 of the Complaint in the instant action. Under Rule 12 of the Discipline and Disbarment Rules of the North Carolina State Bar, the Defendant was required to respond with a full and fair disclosure of all the facts and circumstances with regard to the grievance. On October 22, 1984, the Defendant filed a response to the Chairman's Letter which is attached to the Complaint in the instant action as Exhibit 1.

16. Sometime after January 1, 1985, the Defendant contacted Mr. Newton concerning completion of the case. This was after receipt of the Chairman's Letter of Notice. Mr. Newton advised the Defendant that Mrs. Gaddy was no longer his client and he was not sure how to contact her.

17. The Defendant contacted Edward Charles Bodenheimer, Jr., an attorney in Lumberton, North Carolina on March 15, 1985, after the Complaint in the instant action had been served on the Defendant, and requested that Bodenheimer represent Mr. Gaddy and complete the case for him.

18. Maurice Gaddy will be out of the country and unavailable to appear as a witness on April 26, 1985.

Based upon the foregoing FINDINGS OF FACT, the parties stipulate to the following CONCLUSIONS OF LAW and the Hearing Committee adopts them as its own.

#### CONCLUSIONS OF LAW

1. The Disciplinary Hearing Commission has subject matter jurisdiction of the cause and personal jurisdiction over the Defendant.

2. The Defendant has engaged in conduct constituting grounds for discipline under N. C. Gen. Stat. §84-28(a) and (b) as violations of the Disciplinary Rules of the Code of Professional Responsibility in effect at the time of his actions in that:

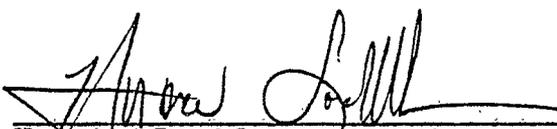
- a. By failing to timely prepare and deliver the consent judgment for entry by the court, the

Defendant has neglected a legal matter entrusted to him in violation of DR6-101(A)(3); failed to seek the lawful objectives of his client in violation of DR7-101(A)(1); failed to carry out a contract of employment in violation of DR7-101(A)(2); has prejudiced or damaged his client in the course of the professional relationship in violation of DR7-101(A)(3); and abandoned the case without permission of his client or the court in violation of DR2-110.

- b. By failing to take any timely steps to rectify the situation after having been contacted by the Chairman of the Grievance Committee, the Defendant has neglected a legal matter entrusted to him in violation of DR6-101(A)(3); failed to seek the lawful objectives of his client in violation of DR7-101(A)(1); failed to carry out a contract of employment in violation of DR7-101(A)(2); has prejudiced or damaged his client in the course of the professional relationship in violation of DR7-101(A)(3); and abandoned the case without permission of his client or the court in violation of DR2-110.

Stipulated to, this the 26th day of April, 1985.

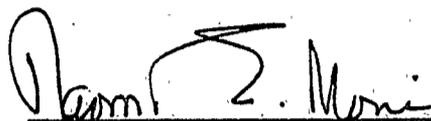
  
\_\_\_\_\_  
David R. Johnson  
Counsel for the Plaintiff

  
\_\_\_\_\_  
Horace Locklear  
Defendant, Appearing Pro Se

The foregoing Stipulated FINDINGS OF FACT AND CONCLUSIONS OF LAW are adopted and the Hearing Committee finds the facts and CONCLUSIONS OF LAW as stated. Further, the Committee finds misconduct.

Pursuant to Discipline and Disbarment and Rule §14(20), the Committee has authorized the Chairman to sign on behalf of all members.

This the 26<sup>th</sup> day of April, 1985.



The Honorable Naomi E. Morris, Chairman  
Hearing Committee

NORTH CAROLINA  
WAKE COUNTY

BEFORE THE  
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OF THE  
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85 DHC 5

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THE NORTH CAROLINA STATE BAR, )  
Plaintiff )

vs. )

HORACE LOCKLEAR, )  
Defendant )

ORDER OF DISCIPLINE

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This cause was heard by the undersigned duly appointed members of a Hearing Committee of the Disciplinary Hearing Commission of the North Carolina State Bar on Friday, April 26, 1985. The Plaintiff, the North Carolina State Bar was represented by David R. Johnson. The Defendant represented himself, pro se. In addition to the FINDINGS OF FACT AND CONCLUSIONS OF LAW entered in this cause, the Committee considered evidence presented by the Plaintiff in the disciplinary phase of the proceedings which is summarized below. The Defendant presented no evidence during the disciplinary phase of the proceedings:

In addition to failing to present the Consent Judgment to the Court for entry, the Defendant closed his law practice during the period in question and failed to notify Mr. Gaddy of that fact. The Defendant also engaged in misconduct during the period in question which resulted in the issuance of a Public Censure. This act of misconduct involved neglecting to provide a satisfactory accounting of funds received in trust. Mr. Gaddy was required to retain the services of other Counsel and pay fees and expenses to secure his divorce that he would not have had to pay had the Defendant completed his duty to his client and the Court by preparing the Consent Judgment in a timely fashion. These additional fees and expenses amounted to \$450.00.

Based on the FINDINGS OF FACT AND CONCLUSIONS OF LAW and the evidence presented for purposes of discipline, the Hearing Committee enters the following ORDER OF DISCIPLINE:

1. The Defendant is hereby suspended from the practice of law for a period of nine (9) months effective thirty days after service of this ORDER or thirty days after affirmance of this order on appeal.

2. The Defendant shall surrender his license and membership card to the Secretary of the North Carolina State Bar by the effective date of this ORDER.
3. The Defendant shall comply with the provisions of section 24 of the Discipline and Disbarment Rules of the North Carolina State Bar regarding the winding down of his practice.
4. As a condition precedent to reinstatement, the Defendant shall pay restitution to Maurice Gaddy in the sum of \$650.00 and provide evidence of that fact to the State Bar.
5. The Defendant is taxed with the costs of this proceeding which shall be paid as a condition precedent to the filing of any petition for reinstatement.

Pursuant to Discipline and Disbarment and Rule §14(20), the Committee has authorized the Chairman to sign on behalf of all members.

This the 3rd day of May, 1985.

  
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The Honorable Naomi E. Morris  
Chairman, Hearing Committee