

NORTH CAROLINA
WAKE COUNTY

BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
85 DHC 21

THE NORTH CAROLINA STATE BAR,)
Plaintiff)
vs.)
ELVIS LEWIS, JR.,)
Defendant)

FINDINGS OF FACT
AND
CONCLUSIONS OF LAW

This matter came on to be heard and was heard on Friday, February 14, 1986 before a Hearing Committee composed of John B. McMillan, Chairman, Angela Bryant, and Alice Penny. Fern E. Gunn represented the North Carolina State Bar. Elvis Lewis, Jr., the Defendant, appeared pro se. Based upon the pleadings, stipulations, and evidence presented, 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, Elvis Lewis, was admitted to the North Carolina State Bar on February 13, 1976 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, 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. 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 maintained a law office in the City of Fayetteville, Cumberland County, North Carolina.

The Hearing Committee makes the following Findings of Fact regarding the First Claim for Relief as set out in the Complaint.

4. In 1981, Sergeant Irvin G. Barnes retained the Defendant to represent him in several domestic matters:

- a. Reduction in Sergeant Barnes' child support obligation;
- b. Child custody; and
- c. Divorce.

There was also some discussion of the Defendant challenging Sergeant Barnes' paternity of his alleged son.

5. Sergeant Barnes paid the Defendant a total of \$2,000 over a three month period as the Defendant's attorney's fees. The following amounts were paid by Sergeant Barnes to the Defendant:

- a. \$250 on October 15, 1981;
- b. \$300 on November 2, 1981;
- c. \$600 on November 30, 1981;
- d. \$850 on January 4, 1982.

6. It appears that the Defendant may have been successful in reducing Sergeant Barnes' child support obligation.

7. The Defendant informed Sergeant Barnes on at least four occasions to appear in court for the trial of these domestic actions. Sergeant Barnes went to court on each of these occasions. Each time, Sergeant Barnes discovered that his case was not on the court's docket.

8. The Defendant has not challenged Sergeant Barnes' paternity of his alleged son. In addition, the Defendant has not obtained the divorce for Sergeant Barnes.

9. On many occasions, Sergeant Barnes telephoned the Defendant to inquire about his cases. However the Defendant did not return Sergeant Barnes' calls.

10. Sergeant Barnes delivered many documents to the Defendant regarding Sergeant Barnes' cases. Sergeant Barnes has requested the return of his documents. However, the Defendant has not returned the papers to Sergeant Barnes.

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:

The Defendant's conduct as set out in paragraphs four through ten (4-10) above constitutes grounds for discipline under N. C. Gen. Stat. §84-28(b)(2) in that the Defendant violated the Disciplinary Rules of the Code of Professional Responsibility as follows:

- a. By failing to obtain Sergeant Barnes' divorce, failing to obtain custody of one of Sergeant Barnes' children and failing to challenge Sergeant Barnes' paternity of his alleged son, the

Defendant has neglected a legal matter entrusted to him in violation of Disciplinary Rule 6-101(A)(3); failed to seek the lawful objectives of his client in violation of Disciplinary Rule 7-101(A)(1); failed to carry out a contract of employment in violation of Disciplinary Rule 7-101(A)(2); and has prejudiced or damaged his client during the course of the professional relationship in violation of Disciplinary Rule 7-101(A)(3).

As pertains to the Second Claim for Relief as set out in the Complaint, the Plaintiff did not proceed on this claim.

The Hearing Committee makes the following Findings of Fact regarding the Third Claim For Relief as set out in the Complaint:

1. In accordance with Rule 12 of the Discipline and Disbarment Rules, the Defendant was ordered by subpoena to appear before the Grievance Committee of the North Carolina State Bar on July 24, 1985, to testify in a grievance investigation and produce any and all records, papers, and documents pertaining to his representation of Sergeant Irvin G. Barnes, the complainant in 85G 0054(II).

2. In accordance with Rule 12 of the Discipline and Disbarment Rules, the Defendant was ordered by subpoena to appear before the Grievance Committee of the North Carolina State Bar on July 24, 1985, to testify in a grievance investigation and produce any and all records, papers, and documents pertaining to his representation of Sergeant Bobby R. Winston, complainant in 85G 0081(II).

3. The Defendant failed to appear before the Grievance Committee of the North Carolina State Bar and produce documents and papers pertaining to the two grievances.

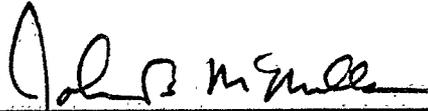
Based upon the foregoing Findings of Fact pertaining to the Third Claim for Relief as set out in the Complaint, the Hearing Committee makes the following Conclusions of Law:

The Defendant's conduct as set out in paragraphs eleven through thirteen (11-13) above constitutes grounds for discipline under N. C. Gen. Stat. §84-28(b)(2) in that the Defendant violated the Disciplinary Rules of the Code of Professional Responsibility as follows:

- a. By failing to appear pursuant to the subpoena issued by the North Carolina State Bar and testify or produce the necessary documents, the Defendant has failed to respond to a formal inquiry of the North Carolina State Bar in a disciplinary matter and has engaged in professional conduct adversely

reflecting on his fitness to practice in violation
of Disciplinary Rule 1-102(A)(6).

Signed with the full accord and consent of the other members
of the Hearing Committee this the 3rd day of March,
1986.



John B. McMillan, Chairman
The Disciplinary Hearing Committee

STATE OF NORTH CAROLINA
COUNTY OF WAKE

BEFORE THE
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OF THE
NORTH CAROLINA STATE BAR
85 DHC 21

THE NORTH CAROLINA STATE BAR,
Plaintiff,

-vs-

ELVIS LEWIS, JR., Attorney,
Defendant.

ORDER OF DISCIPLINE

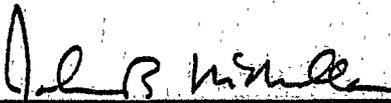
This cause was heard by a duly appointed Hearing Committee of the Disciplinary Hearing Commission of the North Carolina State Bar on Friday, February 14, 1986. The Hearing Committee consisted of John B. McMillan, Chairman, Angela Bryant, and Alice Perry. The Plaintiff, the North Carolina State Bar was represented by Fern E. Gunn. The Defendant, Elvis Lewis, Jr. appeared pro se.

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 suspended from the practice of law for a period of one (1) year, such one year suspension to run concurrently with the Defendant's three (3) years suspension received on August 2, 1985 in case number 85 DHC 12. The discipline imposed in this matter is effective thirty (30) days after service of this ORDER or thirty (30) days after affirmance of this ORDER on appeal.
2. The Defendant shall comply with the provisions set out in the ORDER OF DISCIPLINE in North Carolina State Bar v. Elvis Lewis, Jr., 85 DHC 12.
3. 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 Section 14(20) of the Discipline and Disbarment Procedures of the North Carolina State Bar, the Committee has authorized the Chairman to sign on behalf of all members.

This the 3rd day of March, 1986.



John B. McMillan, Chairman
Disciplinary Hearing Committee