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NORTH CAROLINA
WAKE COUNTY

BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
88 DHC 14

THE NORTH CAROLINA STATE BAR)
Plaintiff)
v.)
STEPHEN L. BEAMAN, ATTORNEY)
Defendant)

ORDER

THIS CAUSE was heard by a Hearing Committee of the Disciplinary Hearing Commission of the North Carolina State Bar composed of John G. Shaw, Esq., Chairman, Emily Turner and Robert C. Bryan, Esq., on Friday, April 14, 1989, upon the Defendant's motion to reconsider the final order of discipline dated January 30, 1989. The Defendant was represented by Lacy M. Presnell, Allen G. Thomas and Charlene B. King. The Plaintiff was represented by Carolin Bakewell.

Based on the record before it and arguments of Counsel, the Committee makes the following findings:

1. The Defendant's motion was originally cast as a motion to reconsider the final order of discipline of January 30, 1989;
2. At the April 14, 1989 hearing, counsel for the Defendant requested the Committee to treat Defendant's motion as made pursuant to Rule 60(b) of the North Carolina Rules of Civil Procedure;
3. Defendant was given a full opportunity to present the evidence and arguments in his defense at the hearing on the merits on December 30, 1988;
4. Defendant has presented no evidence of mistake, inadvertence, surprise, or excusable neglect;
5. Defendant has presented no evidence of newly discovered evidence;
6. Defendant has presented no evidence of fraud or other misconduct of an adverse party;
7. Defendant has not shown that the final order of January 30, 1989 is void;
8. Defendant has not demonstrated that the final order of January 30, 1989 has been satisfied, released or discharged or that it is no longer equitable that the judgment have prospective application;

9. Defendant has not demonstrated any other reason justifying relief from the operation of the judgment;

10. There are no cases, statutes or other authority which forbid a Disciplinary Hearing Committee of the North Carolina State Bar to discipline an attorney solely for a violation of Rule 1.2(D) of the Rules of Professional Conduct;

11. There was clear, cogent and convincing evidence presented at the December 30, 1988 hearing demonstrating that Defendant violated Rule 1.2(D) of the Rules of Professional Conduct.

Based upon the foregoing Findings of Fact, the Committee makes the following Conclusions of Law:

1. The Committee lacks jurisdiction to hear a motion to reconsider its final order of discipline of January 30, 1989;

2. The Committee has jurisdiction to consider Defendant's motion pursuant to Rule 60(b);

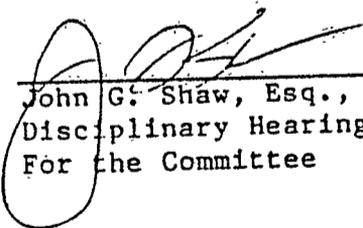
3. An attorney may be disciplined solely on the basis of a violation of Rule 1.2(D) of the Rules of Professional Conduct;

4. The Disciplinary Hearing Committee acted within its authority and discretion when it imposed a public censure upon the Defendant for violating Rule 1.2(D):

5. The Defendant failed to establish that sufficient grounds exist justifying relief pursuant to Rule 60(b).

WHEREFORE, IT IS HEREBY ORDERED, that Defendant's motion be denied.

This the 5 day of May, 1989.


John G. Shaw, Esq., Chairman
Disciplinary Hearing Committee
For the Committee