

NORTH CAROLINA

WAKE COUNTY

BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
90 DHC 6

IN RE SURRENDER OF LICENSE OF : FINDINGS OF FACT
: AND
BENNER JONES, III : CONCLUSIONS OF LAW

THIS CAUSE came on to be heard and was heard on May 31, 1990 by a hearing committee of the Disciplinary Hearing Commission composed of Maureen Demarest Murray, Chairman; Sam L. Beam and Samuel Jerome Crow. Fern E. Gunn represented the North Carolina State Bar and Jack E. Carter represented the petitioner. The hearing committee heard the evidence and arguments of both counsel and finds the following facts by clear, cogent and convincing evidence:

FINDINGS OF FACT

1. All parties were properly before the hearing committee and the hearing committee had jurisdiction over the petitioner, Benner Jones, III and the subject matter.
2. Benner Jones, III (hereinafter Jones) was admitted to the North Carolina State Bar on September 21, 1965. During the time of the events which lead to his conviction on criminal charges, Jones was an attorney at law licensed to practice in North Carolina. He was subject to the rules, regulations, Code of Professional Responsibility, the Rules of Professional Conduct of the North Carolina State Bar, and the laws of North Carolina and the United States.
3. At the time of the events which lead to his conviction on the criminal charges, Jones practiced law in Fayetteville, North Carolina.
4. On October 3, 1988, in the United States District Court for the Eastern District of North Carolina, Jones was convicted by a jury of one count of conspiracy to defraud an agency of the United States, i.e. the Veterans Administration, by obstructing, impairing, impeding, and interfering with a legitimate function of the Veterans Administration, in violation of Title 18, United States Code, Section 371. Jones was also convicted by a jury of five counts of willfully and knowingly concealing or covering up by trick, scheme and device, a material fact in a matter within the jurisdiction of the Veterans Administration and the aiding and abetting of others in the commission of

those acts, in violation of Title 18, United States Code, Section 1001 and 1002. Both of these charges are felonies.

5. The offenses of which Jones was convicted are serious crimes, as defined by Section 3(30) of the Discipline and Disbarment Procedures of the North Carolina State Bar.
6. Jones appealed his conviction to the Fourth Circuit United States Court of Appeals on October 3, 1988.
7. The Fourth Circuit United States Court of Appeals affirmed the judgment of the United States District Court for the Eastern District of North Carolina in an order filed on March 7, 1990.
8. Jones surrendered his law license to the North Carolina State Bar by affidavit dated March 29, 1990 pursuant to Section 17 of the Discipline and Disbarment Procedures of the North Carolina State Bar. Jones requested a hearing before the Disciplinary Hearing Commission of the North Carolina State Bar for a determination of discipline.
9. Jones had no prior record of professional misconduct.
10. Neither the public at large nor the Veterans Administration suffered any economic loss as a result of the offenses for which Jones was convicted.
11. During the mid-eighties, Jones suffered from alcohol abuse. He sought treatment for his problem in January of 1988. Jones continues to receive treatment for his alcoholism.

Based upon the foregoing Findings of Fact, the hearing committee makes the following:

CONCLUSIONS OF LAW

By his conviction of one count of conspiracy to defraud an agency of the United States, by obstructing, impairing, impeding and interfering with a legitimate function of the Veterans Administration and by his conviction of the five counts of willfully and knowingly concealing or covering up by trick, scheme and device, a material fact in a matter within the jurisdiction of the Veterans Administration and the aiding and abetting of others in the commission of those acts, Jones has violated Rule 1.2(B) of the Rules of Professional Conduct.

Signed by the undersigned Chairman with the full accord and consent of the other members of the hearing committee.

This the 20th day of July, 1990.

Maureen Demarest Murray
Maureen Demarest Murray, Chairman

NORTH CAROLINA
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BEFORE THE
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OF THE
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IN RE SURRENDER OF LICENSE OF
BENNER JONES, III

ORDER OF DISCIPLINE

This matter was heard on May 31, 1990 before a hearing committee composed of Maureen D. Murray, chairman; Sam L. Beam, and Samuel Jerome Crow. Based upon the Findings of Fact and Conclusions of Law entered by this hearing committee, the hearing committee enters the following:

ORDER OF DISCIPLINE

1. The Petitioner, Benner Jones, III, is hereby suspended from the practice of law for three years.
2. Petitioner shall surrender his license and membership card to the Secretary of the North Carolina State Bar, if such has not been done.
3. Defendant shall comply with the provisions of Section 24 of Article IX of the Rules and Regulations of the North Carolina State Bar regarding the winding up of his law practice, if such has not been done.
4. During the three year period of suspension, Petitioner shall:
 - a) comply with all local, state, and federal laws;
 - b) abstain from the use of alcohol or drugs;
 - c) attend drug or alcohol counseling services on at least a monthly basis;
 - d) participate in at least 40 hours per year of community service that is related to the prevention or counseling of drug or alcohol abuse; and
 - e) meet the continuing legal education requirements in effect for each year of the three-year suspension.
5. The conditions set forth in paragraph 4 above shall be satisfied at the time that Petitioner seeks reinstatement of his license at the end of the three-year suspension.
6. Petitioner is taxed with the costs of this action.

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Signed by the undersigned chairman with the full accord and consent of
the other members of the hearing committee, this the 20th day of
July, 1990.

Maureen Demarest Murray
Maureen D. Murray, Chairman

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