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NORTH CAROLINA

WAKE COUNTY

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BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
90 DHC 19

THE NORTH CAROLINA STATE BAR,
Plaintiff

v.

ROMALLUS O. MURPHY, ATTORNEY
Defendant

FINDINGS OF FACT
AND CONCLUSIONS OF LAW

This cause was heard by a Hearing Committee of the Disciplinary Hearing Commission consisting of W. Harold Mitchell, Chairman; Frank Emory, Jr. and Sam Beam on Friday, Jan. 11, 1991. The Plaintiff was represented by Carolin Bakewell. David M. Dansby, Jr. and Barry Stanback represented the Defendant, Romallus O. Murphy. Based upon the pleadings, the pre-trial stipulations, and the evidence, the Committee makes the following 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, Romallus O. Murphy, (hereafter, Murphy), was admitted to the North Carolina State Bar in 1956, 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 Rules of Professional Conduct of the North Carolina State Bar and the laws of the State of North Carolina.

3. During all of the periods referred to herein, Murphy was actively engaged in the practice of law in the State of North Carolina and maintained a law office in the City of Greensboro, Guilford County, North Carolina.

4. On or about Sept. 18, 1987, Murphy filed a lawsuit in the U.S. District Court for the Western District of North Carolina, against the City of Asheville. The suit named two individuals, Willie Allen and Walter Robertson, as plaintiffs.

5. The complaint filed by Murphy alleged that the City of Asheville discriminated against Allen, Robertson and other black policemen on the basis of race, in violation of 42 U.S.C. Section 1981 and 1983, and the North Carolina Constitution.

6. In the suit, Murphy sought, inter alia, an injunction prohibiting the City from continuing the allegedly discriminatory practices, promotions and back pay for Allen and Robertson and

\$200,000 in compensatory damages, plus attorneys fees.

7. Allen and Robertson were not aware that they had been named as plaintiffs in the lawsuit until after it had been filed and Murphy did not meet with the officers until February 1988.

8. Allen and Robertson ratified Murphy's action in filing the lawsuit, however, and both considered him to be their attorney respecting the claims against the City.

9. By the spring of 1988, following the completion of discovery in the suit, Murphy became convinced that it was unlikely that the lawsuit would be successful.

10. Prior to May 10, 1988, Murphy and the attorneys for the City of Asheville agreed to settle the lawsuit. As part of the settlement, Murphy agreed to dismiss the federal civil rights action with prejudice.

11. On May 11, 1988, Murphy signed a stipulation of dismissal of the suit with prejudice and mailed it to the federal court for filing.

12. Murphy did not communicate with Allen or Robertson about the proposed settlement and dismissal nor did he obtain their consent to settlement or dismissal before he signed the stipulation of dismissal of the case.

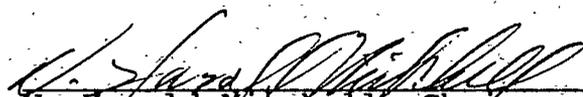
13. On May 12, 1988, Murphy met with Allen, Robertson and Steve Wilborn, then president of the Asheville branch of the NAACP, at the Asheville Airport. At that meeting, Murphy asked Allen and Robertson to sign a settlement agreement, resolving the civil rights suit. Allen and Robertson refused to sign the settlement agreement and insisted that the case be tried. Murphy did not inform Allen and Robertson that he had already taken a dismissal with prejudice in their lawsuit.

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

(a) By settling the civil rights lawsuit against the City of Asheville and dismissing the complaint with prejudice, without first obtaining the permission of Allen and Robertson, Murphy prejudiced his clients in violation of Rule 7.1(A)(3) and failed to abide by his clients' decision regarding settlement, in violation of Rule 7.1(C)(1).

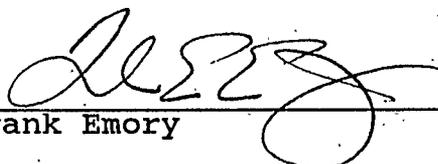
(b) By failing to contact Allen and dismissing the lawsuit with prejudice, Murphy failed to keep his clients reasonably informed about the status of the case, in violation of Rule 6(B)(1) and failed to explain a matter sufficiently to permit his clients to make an informed decision about the case, in violation of Rule 6(A)(1).

This the 28th day of January, 1991.


W. Harold Mitchell, Chairman


Sam Beam

I dissent:


Frank Emory

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ORDER OF DISCIPLINE

This cause was heard by a Hearing Committee of the Disciplinary Hearing Commission consisting of W. Harold Mitchell, Chairman; Frank Emory, Jr. and Sam Beam on Friday, Jan. 11, 1991. Based upon the Findings of Fact and Conclusions of Law, the Hearing Committee enters the following:

ORDER OF DISCIPLINE

1. The Defendant is hereby Reprimanded.
2. The Defendant shall pay the costs of this proceeding.

This the 28th day of January, 1991.

Signed by the Chairman with the express consent of all
Committee members.


W. Harold Mitchell, Chairman