

13252

NORTH CAROLINA

WAKE COUNTY

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
93G0574 (II) R

IN THE MATTER OF)

DOUGLAS A. BEASLEY,)
ATTORNEY AT LAW)

REPRIMAND)

On January 13, 1994, the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by Lesley N. Ellis.

Pursuant to section 13(A) of article IX of the Rules and Regulations of the North Carolina State Bar, the Grievance Committee conducted a preliminary hearing. After considering the information available to it, including your response to the letter of notice, the Grievance Committee found probable cause. Probable cause is defined in the rules as "reasonable cause to believe that a member of the North Carolina State Bar is guilty of misconduct justifying disciplinary action."

The rules provide that after a finding of probable cause, the Grievance Committee may determine that the filing of a complaint and a hearing before the Disciplinary Hearing Commission are not required and the Grievance Committee may issue various levels of discipline depending upon the misconduct, the actual or potential injury caused, and any aggravating or mitigating factors. The Grievance Committee may issue an admonition, reprimand, or censure to the respondent attorney.

A reprimand is a written form of discipline more serious than an admonition issued in cases in which an attorney has violated one or more provisions of the Rules of Professional Conduct and has caused harm or potential harm to a client, the administration of justice, the profession, or a member of the public, but the misconduct does not require a censure.

The Grievance Committee was of the opinion that a censure is not required in this case and issues this reprimand to you. As chairman of the Grievance Committee of the North Carolina State Bar, it is now my duty to issue this reprimand and I am certain that you will understand fully the spirit in which this duty is performed.

Lesley N. Ellis hired you to represent him in a divorce action. Mr. Ellis was unable to talk with you although he called your office on several occasions. He did not receive a copy of the divorce complaint from you.

00235

In April, 1993, Mr. Ellis telephoned your office and left many messages on your answering machine. According to Mr. Ellis, you did not return his telephone calls or communicate with him in any way.

In response to Mr. Ellis's grievance, you have indicated that you were forced to close your law office due to financial and health reasons. You also admitted that you were unable to communicate with your clients because of conditions resulting from your poor physical health.

Your failure to communicate with your client violates Rule 6(B)(1) and (2) of the Rules of Professional Conduct. That rule requires an attorney to keep his client reasonably informed about the status of a matter and promptly comply with reasonable requests for information. Furthermore, a lawyer is required under Rule 6(B)(2) to explain a matter to the client to the extent reasonably necessary to permit the client to make informed decisions regarding the representation. Mr. Ellis, who is stationed in the armed forces in England, was justifiably concerned about his divorce action in North Carolina when he could not receive any information from you.

You also neglected some other matters regarding Mr. Ellis' case. You failed to mail him a copy of his lawsuit. Furthermore, you misspelled Mr. Ellis' name on the lawsuit.

These instances of neglect violate Rule 6(B)(3). As an attorney, you have an obligation to act with reasonable diligence and promptness in representing your client.

The North Carolina State Bar referred Mr. Ellis' grievance to the 13th Judicial District Grievance Committee for investigation. You were contacted by the local grievance committee and asked to respond to the grievance. You failed to provide a response to the local grievance committee. Furthermore, the State Bar's counsel wrote you on November 24, 1993 and requested additional information regarding the grievance. You failed to respond to that letter.

Your failure to respond to the State Bar's local grievance committee and the State Bar's counsel are in violation of Rule 1.1(B) of the Rules of Professional Conduct. You are required to respond to the formal inquiries of the North Carolina State Bar and your failure to do so is misconduct for which discipline is appropriate. (N.C.G.S. Section 84-28(b)(3)) As a member of the North Carolina State Bar, you have an obligation to answer inquiries from the State Bar regarding its investigation of grievances. If lawyers are to remain self-regulated, it is incumbent upon them to cooperate with the State Bar in the investigation of allegations of misconduct.

You are hereby reprimanded by the North Carolina State Bar due to your professional misconduct. The Grievance Committee trusts that you will heed this reprimand, that it will be remembered by you, that it will be beneficial to you, and that you will never again allow yourself to depart from adherence to the high ethical standards of the legal profession.

In accordance with the policy adopted October 15, 1981 by the Council of the North Carolina State Bar regarding the taxing of the administrative and investigative costs to any attorney issued a reprimand by the Grievance Committee, the costs of this action in the amount of \$50.00 are hereby taxed to you.

Done and ordered, this 30th day of January, 1994.

W. Erwin Spainhour
W. Erwin Spainhour
Chairman, Grievance Committee,
The North Carolina State Bar

[38]

00327