

8026

NORTH CAROLINA
WAKE COUNTY



BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
94 DHC 7

THE NORTH CAROLINA STATE BAR,)
Plaintiff)
vs.)
GEOFFREY H. SIMMONS, ATTORNEY)
Defendant)

FINDINGS OF FACT
AND
CONCLUSIONS OF LAW

This matter coming on to be heard and being heard on November 14, 1994 before a hearing committee of the Disciplinary Hearing Commission composed of Henry C. Babb, Jr., Chairman, Robert B. Smith, and Steven Huntley; with Joseph C. Cheshire V and Alan M. Schneider representing the Defendant, and Harriet P. Tharrington representing the North Carolina State Bar; and based upon the pleadings, the Stipulation on Prehearing Conference, the exhibits admitted into evidence and the testimony of the witnesses, the hearing committee finds the following to be supported by clear, cogent and convincing evidence:

FINDINGS OF FACT

1. Defendant was admitted to the North Carolina State Bar in 1977.
2. During all times relevant hereto, Defendant was actively engaged in the practice of law in the State of North Carolina and maintained a law office in Raleigh, North Carolina.
3. On or about June 29, 1991, Defendant and his wife and the family of Carlton E. Myers were sharing a suite at the Shell Island Resort in Wrightsville Beach, N.C.
4. In the afternoon of June 29, 1991, fifteen-year old Koshala Myers (hereafter, the victim), her father Carlton Myers, her stepmother Hilda Myers, and Defendant went on the beach.
5. After a swim in the ocean, Defendant and the victim went to the resort's outdoor hot tub.
6. At a time when the victim and Defendant were alone in the hot tub, Defendant intentionally put his hand on the victim's crotch. The victim pushed his hand away and told Defendant "no".
7. Defendant then took the victim's hand and deliberately

placed it on his exposed, erect penis. The victim pulled her hand away and told Defendant "no".

8. As a result of Defendant's conduct of intentionally putting his hand on the victim's crotch and then deliberately placing her hand on his penis, Defendant was indicted by a New Hanover County grand jury on or about July 22, 1991 for one count of taking indecent liberties with a minor in violation of N.C. Gen. Stat. Sec. 14-202.1.
9. On or about September 15, 1993, Defendant pled guilty to one misdemeanor count of assault on a female.

CONCLUSIONS OF LAW

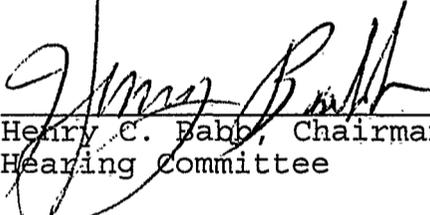
BASED UPON the foregoing Findings of Fact, the hearing committee enters the following Conclusions of Law:

1. Defendant's conduct violated N.C. Gen. Stat. Section 84-28(b)(2) in that Defendant violated the N.C. Rules of Professional Conduct as follows:

By intentionally placing his hand on the victim's crotch and then deliberately taking her hand and placing it on his penis, Defendant engaged in criminal conduct that reflects adversely on his fitness as a lawyer in violation of Rule 1.2(B).

2. The offense for which Defendant was convicted is a criminal offense showing professional unfitness in violation of N.C. Gen. Stat. Section 84-28(b)(1).

Signed by the undersigned chairman with the full knowledge and consent of the other hearing committee members, this the 21 day of November, 1994.


Henry C. Babb, Chairman
Hearing Committee

NORTH CAROLINA
WAKE COUNTY



BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
94 DHC 7

THE NORTH CAROLINA STATE BAR,
Plaintiff

vs.

GEOFFREY H. SIMMONS, ATTORNEY
Defendant

ORDER OF DISCIPLINE

This cause was heard by a hearing committee of the Disciplinary Hearing Commission composed of Henry C. Babb, Jr., Chairman; Robert B. Smith and Steven Huntley on Monday, November 14, 1994. After entering the Findings of Fact and Conclusions of Law in this matter, the committee received evidence and considered arguments of counsel concerning the appropriate discipline to be imposed. Based upon the evidence and arguments presented, the committee finds the following aggravating and mitigating factors:

AGGRAVATING FACTORS

1. Selfish motive;
2. Submission of false evidence, false statements, or other deceptive practices during the disciplinary process;
3. Refusal to acknowledge the wrongful nature of conduct;
4. Vulnerability of victim;
5. Substantial experience in the practice of law;

MITIGATING FACTORS

1. Absence of a prior disciplinary record;
2. Defendant enjoyed a good reputation in the community;

BASED UPON the Findings of Fact and Conclusions of Law and the above aggravating and mitigating factors, the committee hereby enters this

ORDER OF DISCIPLINE

1. Defendant is hereby suspended from the practice of law for a period of one year.

2. This suspension shall be stayed for a period of five years upon the following conditions:

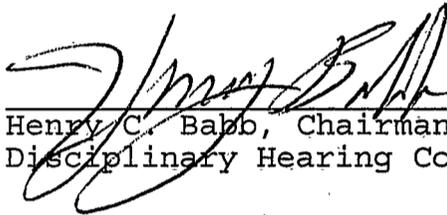
a) Defendant shall violate no laws of the State of North Carolina and shall violate no provisions of the Rules of Professional Conduct during the period of suspension.

b) Defendant shall perform 200 hours of community service.

c) Defendant shall receive psychiatric counseling from a board certified psychiatrist, acceptable to the State Bar and Defendant, and that counseling continue for such a period of time as the chosen professional dictates.

3. Defendant is taxed with the costs of this proceeding, including the deposition, witness travel fees and other costs associated with the hearing.

Signed by the Chairman of the hearing committee with the full knowledge and consent of all parties and the other members of the hearing committee this the 21 day of November, 1994.


Henry C. Babb, Chairman
Disciplinary Hearing Committee