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NORTH CAROLINA

BEFORE THE COUNCIL OF THE
NORTH CAROLINA STATE BAR

WAKE COUNTY

THE NORTH CAROLINA STATE BAR,)
Complainant)

VS.)

JUDGMENT

E. CLAYTON SELVEY, JR.,)
Attorney at Law, Charlotte,)
North Carolina)
Respondent)

This cause came on to be heard, and was heard, before the Council of The North Carolina State Bar at its meeting on January 16, 1976, upon the report of a Trial Committee duly appointed by the North Carolina Supreme Court, to sit and hear this disciplinary proceeding, and the record in this cause, and it appearing to the Council;

That this proceeding was instituted by The North Carolina State Bar by the issuance of a summons and notice dated May 12, 1975, and the filing of a verified complaint. The summons and notice and the complaint were personally served upon the Respondent by the sheriff of Mecklenburg County on May 14, 1975. The North Carolina State Bar, in its complaint, prayed that disciplinary action be administered to E. Clayton Selvey, Jr., based upon his failure to take any action to represent three clients, Raymond A. McMurray, Lindsay Williams, and his wife, Katharine Williams, and Stephen M. Craig, such failure to take action resulting in the barring of the aforementioned clients rights, as a result of the expiration of the statute of limitations in each case.

The Respondent filed answer within the allotted time, admitted the material allegations of the complaint, but denying that the conduct alleged and admitted constituted a basis for disciplinary action. In his answer, the Respondent elected to be tried by a committee appointed by the Supreme Court in accordance with North Carolina General Statutes Section 84-28(c)(d)(2). The Supreme Court duly appointed James B. Garland, John Hugh Williams, and John C. Kesler as the trial committee to hear the matter. The North Carolina State Bar was represented by Robert A. Melott, and the Respondent was represented by Robert F. Rush, Attorney at Law of the 26th District Bar.

The Complainant and Respondent entered into stipulations of fact and agreed that there were no substantive issues in controversy. At the hearing, the Complainant offered in evidence the original summons and notice, the answer, the stipulations of fact, and the affidavits of the aggrieved parties. The Respondent offered the testimony

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of Stephen Dolly, Arthur Goodman, Jr., William A. Williams, Martin Brackett, Eddie Knox, T. M. Glasgow, and Jo Dobbins. The Respondent also testified in his own behalf.

The parties agreed that the trial committee might make its findings of fact, conclusions of law and recommendations after oral argument based upon the evidence and testimony submitted. The trial committee filed its report in the office of The North Carolina State Bar on October 1, 1975. The record reveals that a copy of this report was forwarded to the Respondent, E. Clayton Selvey, Jr. and his attorney, and also notified them that it would come on for hearing at the meeting of the Council on January 16, 1976.

The Respondent filed exceptions and objections to the findings of fact, conclusions of law, and recommendations of the trial committee of The North Carolina State Bar, and asked to be heard at such time and place as provided by The North Carolina State Bar to present the reasons for such exceptions and objections. At the January 16 meeting of the Council, Mr. Robert Rush, Attorney, appeared on behalf of the Respondent and made a statement in support of the exceptions and objections.

Each member of the Council has been furnished a copy of the report of the trial committee and the record in the case, prior to the meeting of the Council on January 16, 1976. After giving due consideration to the report of the trial committee and the record, and after hearing the statements of Mr. Robert Rush, and the Counsel for The North Carolina State Bar, the Council, upon motion duly made and seconded, adopted the following resolutions:

"BE IT RESOLVED that the Council of The North Carolina State Bar at its meeting on January 16, 1976, after giving due consideration to the report of the Trial Committee and the record in this proceeding and the arguments of Counsel, adopts the Findings of Fact of the Trial Committee appointed to sit and hear the matter of The North Carolina State Bar, Complainant vs. E. Clayton Selvey, Jr., Attorney at Law, Charlotte, N. C., Respondent, as follows:

"1. 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 in Chapter 84, General Statutes of North Carolina.

"2. The Respondent is a graduate of the Law School of Wake Forest University. He was admitted to the practice of law in North Carolina in August, 1958, having successfully passed the examination administered by the Board of Law Examiners. He thereafter volunteered for service in the United States Army and was commissioned in the Judge Advocate General's Corps. He was honorably discharged upon completion of his four years military obligation. He began practicing law in Charlotte in April, 1961. In 1966 he was appointed Solicitor in the Mecklenburg County Court and served in that capacity for two years, and then served in the office of the District Solicitor for three months to assist in the transition to the new court system that became effective in Mecklenburg County in 1968. He then returned to private practice and has continued to practice law in Charlotte since that time.

"3. As an attorney admitted to practice law in the courts of North Carolina, Respondent is subject to the rules and regulations and Canons of Ethics and Code of Professional Responsibility of The North Carolina State Bar and the laws of the State of North Carolina.

"4. During the fall of 1970, the Respondent was retained by R. A. McMurray to represent McMurray in regard to a claim against McMurray's home owner's insurance carrier for smoke damage.

Subsequently the Respondent prepared a complaint against the carrier which McMurray signed. Thereafter the Respondent stated to McMurray on several occasions that the complaint had been filed and the suit was pending, awaiting trial. McMurray learned, in the latter part of 1973, that the complaint had never been filed. McMurray contacted the Respondent concerning the failure to file the complaint and the possibility of the Statute of Limitations barring the claim. The Respondent again stated that the complaint had been filed and the case was pending. McMurray's further attempts to contact the Respondent about the matter were unsuccessful.

"5. In February, 1971, Lindsay Williams and his wife, Katherine Williams, retained the Respondent to represent them in regard to damages incurred by Katherine Williams in an automobile accident. Thereafter, during the year 1973, the Respondent prepared a complaint which was signed by Katherine Williams. Lindsay and Katherine Williams inquired of the Respondent on various occasions concerning the status of the case and were informed that the matter was awaiting trial. In November, 1974, Lindsay Williams examined the records in the office of the Clerk of Court of Mecklenburg County and determined that the complaint had never been filed. Further attempts to contact the Respondent about the matter were unsuccessful.

"6. On April 22, 1971, Meredith L. Craig retained the Respondent to represent her son, Stephen M. Craig, then a minor, in regard to damages incurred by Stephen M. Craig in an automobile accident on March 21, 1971. The Respondent took no action to protect the interests of this client.

"7. The Statute of Limitations has barred any right to recovery on the claims of these clients.

"8. The Respondent has installed a new system for bookkeeping and the indexing and handling of cases.

"9. The Respondent has personally paid R. A. McMurray the sum of \$750 for his losses resulting from the failure to file a complaint.

"10. The claims of Lindsay and Katherine Williams and of Stephen M. Craig have been turned over to the Respondent's liability insurance carrier and settlement of them is being negotiated, liability having been conceded.

"BE IT FURTHER RESOLVED that the Council concludes:

"A. E. Clayton Selvey failed to exert his utmost learning and ability to the end that nothing be taken or withheld from his client, saved by the rules of law, legally applied.

"B. E. Clayton Selvey failed in his duty to be punctual in the attendance and to be concise and direct in the trial and disposition of his client's cause.

"C. E. Clayton Selvey neglected a legal matter entrusted to him.

"D. E. Clayton Selvey intentionally failed to seek the lawful objectives of his clients through reasonably available means permitted by law and the disciplinary rules under the Code of Professional Responsibility.

"E. E. Clayton Selvey failed to carry out a contract of employment entered into with a client for professional services.

"F. E. Clayton Selvey prejudiced and damaged his clients during the course of the professional relationship existing between them.

"AND, BE IT FURTHER RESOLVED, that the acts and omissions of the Respondent be adjudged to be violations of the Canons of Ethics and Code of Responsibility adopted and promulgated by the Council of The North Carolina State Bar within the meaning of the language contained in Section 84-28(2)(f) of the General Statutes and as such justify appropriate disciplinary action.

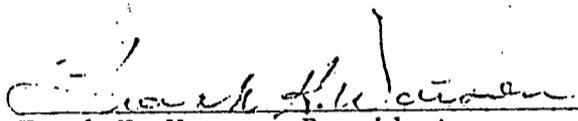
"AND, BE IT FURTHER RESOLVED, that the Respondent, E. Clayton Selvey, Jr., be, and he is hereby suspended from the practice of law for a period of six months, beginning February 1, 1976.

"BE IT FURTHER RESOLVED, that the President is ordered and directed to enter a proper judgment in this cause."

THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that the Respondent, E. Clayton Selvey, Jr., be, and he is hereby suspended from the practice of law for a period of six months, beginning February 1, 1976.

AND, IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Respondent, E. Clayton Selvey, Jr., be taxed with the costs of this proceeding, as certified by the Secretary of The North Carolina State Bar and that a copy of this Judgment be certified to the N. C. General Court of Justice and all federal courts sitting in the State of North Carolina.

BY ORDER OF THE COUNCIL, this 1st day of February, 1976.


Frank H. Watson, President
The North Carolina State Bar