

NORTH CAROLINA

8699

WAKE COUNTY

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
95G0817(IV)

IN THE MATTER OF)

WAYNE O. CLONTZ,)
ATTORNEY AT LAW)

REPRIMAND)

On January 11, 1996, the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by Jessie M. Simpson.

Pursuant to section .0113(a) of the Discipline and Disability Rules 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.

In August 1994, Ms. Jessie M. Simpson hired you to represent her in a domestic dispute with her husband James Simpson. Your representation was to include private prosecution of Mr. Simpson for assault against Ms. Simpson. During August, September and October 1994, there were at least two court hearings scheduled in this case. You either did not appear at those hearings to represent Ms. Simpson or you were late in attending the hearings. On at least one occasion you communicated

directly with the court concerning your failure to appear. Each of the scheduled hearings was continued to a later date. Ms. Simpson was present in court each time the matter was scheduled for a hearing.

On or about October 17, 1995, Ms. Simpson terminated your services after a district court judge advised her that she should discharge you since you had failed to appear each time the matter was scheduled for hearing.

You undertook to represent Ms. Simpson in this serious domestic dispute knowing that the parties were residents of McDowell County, North Carolina, and that the court hearings required you to provide adequate representation of Ms. Simpson in McDowell County. You failed to keep your client properly informed of the status of the proceedings in court and your availability for attending court on the dates of the various hearings, in violation of Rule 6(b)(1) and 6(b)(3) of the Rules of Professional Conduct.

In aggravation, you have received prior discipline including an admonition in July 1993, a letter of warning in April 1995 and an admonition in July 1995.

In mitigation, you refunded the entire fee of \$800 that Ms. Simpson had paid you for your representation. In addition, you apparently performed a substantial amount of legal work for Ms. Simpson relating to other aspects of her domestic dispute such as a property settlement.

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 19th day of February, 1996.



Ann Reed
Chairman, Grievance Committee
The North Carolina State Bar