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WAKE COUNTY
NORTH CAROLINA



BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
98 DHC 10

THE NORTH CAROLINA STATE BAR)	
PLAINTIFF)	FINDINGS REGARDING DISABILITY,
v.)	FINDINGS OF FACT,
JEROME K. PERSON, ATTORNEY)	CONCLUSIONS OF LAW AND
DEFENDANT)	ORDER OF DISCIPLINE

This matter came on to be heard and was heard on June 12, 1998 before a hearing committee of the Disciplinary Hearing Commission composed of Richard T. Gammon, Chair; Franklin E. Martin and Robert B. Frantz. The defendant, Jerome K. Person, was represented by Larry J. McGlothlin. Clayton W. Davidson III represented the State Bar. Based upon the pleadings and the evidence introduced at the hearing, the hearing committee hereby enters the following:

FINDINGS REGARDING DISABILITY

1. The North Carolina State Bar has failed to prove by clear cogent and convincing evidence that the Defendant suffers from a mental or physical condition which significantly impairs his professional judgment, performance or competence, and the North Carolina State Bar's claim regarding the Defendant's alleged disability is hereby dismissed.

Having found that the Defendant is not disabled, the panel considered whether the Plaintiff by clear cogent and convincing evidence has proven a violation of the Rules of Professional Conduct, and the panel having considered the evidence and the arguments of the parties enters the following:

FINDINGS OF FACT

1. The Plaintiff, the North Carolina State Bar (the "State Bar") is a body duly organized under the laws of the State of North Carolina and is the proper body to bring this proceeding under the authority granted to it in Chapter 84 of the General Statutes of

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North Carolina and the Rules and Regulations of the State Bar promulgated pursuant thereto (the "State Bar Rules and Regulations").

2. The Defendant, Jerome K. Person, (the "Defendant") was admitted to the State Bar in 1977 and is, and was at all times referred to herein, an attorney at law licensed to practice in North Carolina subject to the State Bar Rules and Regulations and the Rules of Professional Conduct of North Carolina.
3. During all or a part of the relevant periods referred to herein, the Defendant was engaged in the practice of law in the State of North Carolina and maintained a law office in Fayetteville, North Carolina.
4. The Defendant was properly served with process and is subject to the jurisdiction of the Disciplinary Hearing Commission.
5. The Defendant is an alcoholic and was treated for alcoholism prior to 1989.
6. On the morning of April 25, 1997, the Defendant was present in the federal courthouse in Wilmington, N.C. as a spectator and attempted to leave the courtroom, but was told that he was not allowed to leave. At approximately 1:15 p.m. on that afternoon, the Defendant returned to the courthouse in an intoxicated state, approached court security officers and demanded to know why he could not leave the courtroom, once court had begun its session. The Defendant was informed that it was the policy of the presiding judge not to permit spectators to leave until after the jurors had left the courtroom.
7. The Defendant became disruptive. When the Defendant refused to comply with the request of Court Security Officers Jerry L. McAdams and Lonnie H. Howard that he leave the courthouse, the Defendant stated that he was not going "any fucking place until that son of a bitch gives me a letter" and continued to shout profanity at Howard and McAdams.
8. Thereupon, McAdams and Howard attempted to escort the Defendant from the courthouse. The Defendant resisted and stated that he was not going "any fucking place with these fucking niggers."
9. The Defendant assaulted court security officer Howard and ultimately was arrested for assaulting a federal officer.
10. On or about the 19th day of June 1997, the Defendant appeared before the Honorable Wallace W. Dixon, United States Magistrate Judge and entered a plea of guilty to assault on a court security officer and was ordered to serve a 20-day sentence with credit for time served, ordered to pay a fine of \$1,000 and a special assessment of \$25.00.

Based upon the foregoing findings of fact, the Hearing Committee makes the following:

CONCLUSIONS OF LAW

1. The Defendant committed a criminal act which reflects adversely on his honesty, trustworthiness or fitness as an attorney in violation of Rule 1.2(b) of the North Carolina Rules of Professional Conduct.

Based upon the foregoing findings of fact and conclusions of law and the arguments of the parties, the hearing committee hereby enters the following:

FINDINGS OF FACT REGARDING DISCIPLINE

1. The Defendant's misconduct is aggravated by the following factors:
 - a) Substantial experience in the practice of law;
 - b) Multiple incidents of alcohol abuse or the use of poor judgment as it relates to the practice of law.
2. The Defendant's misconduct is mitigated by the following factors:
 - a) Absence of a prior disciplinary record;
 - b) Absence of a dishonest or selfish motive;
 - c) Personal or emotional problems.
3. The mitigating factors outweigh the aggravating factors.

Based upon the foregoing aggravating and mitigating factors and the arguments of the parties, the hearing committee hereby enters the following:

ORDER OF DISCIPLINE

1. The Defendant, Jerome K. Person, is hereby suspended from the practice of law and profession as an attorney in the State of North Carolina for a period of three years.
2. This suspension is stayed for three years upon the following terms and conditions:
 - a) The Defendant shall totally abstain from the consumption and the use of any alcoholic beverage of any type throughout the period of the stay;
 - b) The Defendant's non-consumption of alcohol shall be evidenced by successful compliance with the monitoring requirements of the National Confederation of Professional Services or other like service approved by

the North Carolina State Bar, at the Defendant's expense. Any failure of the Defendant to take a test, and any positive test must be reported to the North Carolina State Bar by the monitoring service;

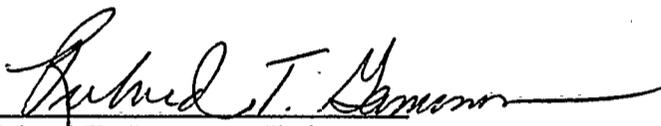
- c) Failure to comply with the monitoring requirements; a copy of which is to be attached to this Order within thirty (30) days of the date of this Order and is incorporated by reference herein, or a positive test result, shall cause any stay of suspension to be immediately dissolved;
- d) The Defendant shall obtain a substance abuse assessment within thirty (30) days from the date of this order from an agency approved by the North Carolina State Bar and shall comply with all treatment recommendations of that assessing agency;
- e) The Defendant shall obtain a psychiatric evaluation within thirty (30) days of the date of this Order of Discipline from a health-care provider or agency approved by the North Carolina State Bar and to follow all treatment recommendations of the assessing agency;
- f) Within thirty days of the date of this order, the Defendant shall sign the appropriate documents allowing the above agencies and the treatment providers to release confidential information to the North Carolina State Bar. The Defendant shall execute any additional releases as and when requested by the North Carolina State Bar, such releases to be executed within ten (10) days from a request by the North Carolina State Bar;
- g) All costs of assessments and treatments shall be borne by the Defendant;
- h) The Defendant shall deliver a copy of this order to each District Court Judge and Resident Superior Court Judge and the Trial Court Administrator in any district in which he practices law, and shall provide written verification to the North Carolina State Bar certifying compliance with this provision within thirty (30) days from the date of this Order;
- i) If PALS officials will agree to accept the Defendant into its program, the Defendant shall execute a contract with the PALS Program of the North Carolina State Bar within forty-five (45) days from the date of this Order of Discipline and shall abide by all conditions of that contract, said contract to include all the conditions contained in this order, and such other conditions as PALS officials may deem appropriate, and shall further sign the appropriate documents to allow the PALS program to release confidential information to the North Carolina State Bar;
- j) The Defendant shall comply with the Revised Rules of Professional Conduct, and shall comply with all state, federal and local laws and

regulations during the period of the stay.

k) The Defendant shall pay the reasonable costs of this action within ninety (90) days of service of the assessment of costs by the secretary.

3. If this stay is dissolved and the suspension goes into effect, then the Defendant must demonstrate by clear cogent and convincing evidence that he has complied with all conditions of paragraph 2 of this order and has abstained from all alcohol use or consumption for a period of at least one year as a condition of reinstatement as an attorney with the North Carolina State Bar, such abstention to be evidenced by successful compliance with the monitoring requirements of the National Confederation of Professional Services or other like service approved by the North Carolina State Bar at the Defendant's expense. The Defendant must demonstrate that he has abstained from the use of alcohol for a period of at least one year immediately preceding his filing a petition for reinstatement regardless of when the stay is dissolved, and regardless of whether the provisions of this paragraph would result in his being unable to practice law for more than three years.

This the 18th day of June, 1998.


Richard T. Gammon, Chair
Disciplinary Hearing Commission