

7892

STATE OF NORTH CAROLINA
COUNTY OF WAKE

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
86G 0625(I)

IN THE MATTER OF
BILLY H. MASON
ATTORNEY AT LAW

PUBLIC CENSURE

At its regular quarterly meeting on July 14, 1988, the Grievance Committee of the North Carolina State Bar conducted a preliminary hearing under Section 13 of Article IX of the Rules and Regulations of the North Carolina State Bar regarding the grievance filed against you by Samuel L. Getward. The committee considered all of the evidence before it, including your written statement to the committee. Pursuant to Section 13(10) of the rules, the committee found probable cause. Probable cause is defined under the rules as: "A finding by the Grievance Committee that there is reasonable cause to believe that a member of the North Carolina State Bar is guilty of misconduct justifying disciplinary action." The committee determined that a complaint and a hearing were not warranted in this matter and the committee ordered a Public Censure upon your acceptance of it. Therefore, the committee issues this Public Censure to you.

As Chairman of the Grievance Committee of the North Carolina State Bar, it is now my duty to issue this Public Censure and I am certain that you understand fully the spirit in which this duty is performed, that you will understand the censure, and appreciate its significance. The fact that a Public Censure is not the most serious discipline that may be imposed by the North Carolina State Bar should not be taken by you to indicate that any member of the committee feels that your conduct was excusable or less than a serious and substantial violation of the Rules of Professional Conduct.

You were appointed to represent Samuel L. Getward at the trial of his criminal cases in New Hanover County Superior Court. Getward was convicted and received an active prison sentence. You were appointed to perfect Getward's appeal to the North Carolina Court of Appeals on March 28, 1986. You failed to file a record on appeal in Getward's case, take any other action to perfect Getward's appeal, or otherwise protect his rights to an appeal.

In the Rules of Professional Conduct, an attorney is advised of his obligations in handling his client's legal matters. Rule 6(B)(3) states that a lawyer shall act with reasonable diligence and promptness in representing the client. Rule 7.1(A)(1) states that a lawyer shall not intentionally fail to seek the lawful objectives of his client through reasonably available means. In failing to perfect Getward's appeal, you violated these rules.

00813

The committee was aware that you thought a new attorney would be appointed to perfect Getward's appeal when Getward filed his second motion to have you removed as counsel. However, Getward's motion was denied by the judge and it remained your responsibility to perfect the appeal. You failed to follow-up to see whether you had been relieved of your responsibility in Getward's appeal. You allowed the 150-day period within which to file the record in the Court of Appeals to elapse without filing the record. The trial court later had to appoint new counsel for Getward.

The committee is confident that this Public Censure will be heeded by you, that it will be remembered by you, and will be beneficial to you. The committee is confident that you will never again allow yourself to depart from strict adherence to the highest standards of the profession. Instead of being a burden, this Public Censure should serve as a profitable and everpresent reminder to weigh carefully your responsibilities to your clients, to the public, to your fellow attorneys, and to the courts.

Pursuant to Section 23 of Article IX the Rules and Regulations of the North Carolina State Bar, it is ordered that a certified copy of this Public Censure be forwarded to the Clerk of Superior Court of New Hanover County for entry upon the judgment docket and to the Supreme Court of North Carolina for entry in its minutes. This Public Censure will also be maintained as a permanent record in the judgment book of the North Carolina State Bar. Pursuant to policy adopted by the Council of the North Carolina State Bar on the taxing of costs in cases where discipline is entered by the Grievance Committee, you are hereby taxed \$50.00 as the administrative costs in this action.

This the 10th day of August, 1988.



Joseph B. Cheshire, Jr., Chairman
The Grievance Committee

