

WAKE COUNTY
NORTH CAROLINA



12540

BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
99 BCR 1

IN RE REINSTATEMENT PETITION OF)

BILLY JOE SANDERS)

**REPORT OF THE
HEARING COMMITTEE**

This matter was heard on August 13, 1999 by a hearing committee of the Disciplinary Hearing Commission composed of James R. Fox, Chair, Kenneth M. Smith, and B. Stephen Huntley; with Marvin Sparrow representing the petitioner and A. Root Edmonson representing the North Carolina State Bar. Based upon the stipulations of the parties, the evidence presented at the hearing and the arguments of counsel, the hearing committee makes the following:

FINDINGS OF FACT

1. Billy Joe Sanders, (hereinafter Sanders), was licensed to practice law in North Carolina in 1984. Sanders practiced law in Durham, North Carolina.
2. In February 1986, Sanders was advised by a client who was about to be released from federal prison that deceased relatives had left a Swiss bank account containing \$3.1 million dollars. Sanders undertook to go to Switzerland to retrieve the money from the account in exchange for a percentage of the amount returned to the US for the client.
3. Sanders solicited the assistance of Jack Brown, (hereinafter Brown), who had lived in Europe a number of years, to retrieve the money from the Swiss bank.
4. Sanders and Brown spent approximately ten days in Switzerland in a failed attempt to retrieve the money from the account. Brown had to borrow some money from a German friend to pay some of the expenses of their trip.
5. After their return to the US, Brown began to pressure Sanders to pay all of Brown's expenses incurred in the trip to Switzerland. Sanders believed that he only owed Brown for Sanders' share of the hotel expense.
6. On April 10, 1986, Sanders, Brown and a friend of Brown's met at the bar in a hotel near the Greensboro airport. Sanders took a .38 caliber pistol to that meeting. After Brown's friend had left the table, and after Brown made what Sanders considered a threat to Sanders' family, Sanders stood up and shot Brown at least three times. Brown died as a result.

7. Sanders was charged with first degree murder. However, on October 2, 1986, Judge F. Fetzer Mills accepted Sanders' plea to second degree murder and sentenced Sanders to 25 years in prison. Judge Mills also entered a separate order disbaring Sanders.

8. Sanders was released from prison on August 11, 1993 and placed on parole. Sanders was terminated from parole and his rights of citizenship were restored on January 7, 1994.

9. In August 1994, Sanders began working as a paralegal for North Carolina Prisoner Legal Services, Inc. (hereinafter NCPLS). Sanders is still employed in that capacity. During his employment, Sanders' work has been a benefit to the lawyers he has served as well as the clients of NCPLS and he appears to have performed well in a structured and supervised environment.

10. Several of the present and former lawyers at NCPLS, including NCPLS's Executive Director, believe that Sanders could be of even more benefit to the clients of NCPLS if allowed to apply his considerable skills as their lawyer.

11. Although Sanders was hospitalized in 1973 and 1975 after exhibiting psychiatric symptoms, Sanders has not required any medication and has not had a diagnosed recurrence of psychiatric symptoms since 1978. However, psychiatric testimony presented at the Sanders hearing was to the effect that the condition(s) from which Sanders previously suffered tend to be chronic. The psychiatric testimony was also to the effect that Sanders is somewhat atypical in not having suffered a known clinically diagnosed recurrence since 1978. The Board of Law Examiners admitted Sanders to practice in 1984 with knowledge of his psychiatric history.

12. The Committee in making its decision was of the view that the crime for which Sanders was imprisoned and disbarred may have involved or been part of a recurrence of Sanders prior psychiatric symptoms and that at a minimum such a recurrence could not be ruled out.

13. Sanders published a notice of intent to seek reinstatement in the North Carolina State Bar Journal that complied with the requirements of 27 NCAC 1B, § .0125(a)(3)(A).

14. At the time of his disbarment, Sanders complied with the requirements of the predecessor to 27 NCAC 1B, § .0124 in winding down his practice.

15. With the exception of his term of imprisonment, there have been no orders of the commission, the council or the courts with which Sanders had to comply.

16. During the period of his disbarment, Sanders has not engaged in the unauthorized practice of law.

17. During the period of his disbarment, Sanders has not engaged in any conduct which would constitute grounds for discipline.

18. Sanders understands the current Revised Rules of Professional Conduct.

19. Sanders' misconduct did not cause any financial loss to clients and the Client Security Fund did not disburse any funds in relation to Sanders' practice or disbarment.

20. Sanders has paid all dues, assessments, penalties and fees owed to the North Carolina State Bar.

21. Sanders has made substantial efforts toward rehabilitation. However, taking into account the gravity of his previous criminal offense, the Committee finds that Sanders is not currently able to demonstrate the moral qualities required for admission to the practice of law in this state.

22. The applicable provisions of the Revised Rules do not provide for a per se rule against reinstatement based upon any particular offense which resulted in disbarment. As a result, this Committee does not believe it is authorized under the Revised Rules to apply any such per se rule to this case. However, taking into account Sanders prior psychiatric history and the gravity of the crime which resulted in the order of disbarment, the Committee finds that Sanders has not sufficiently demonstrated his reformation to the public and, consequently his reinstatement to the practice of law would be detrimental to the integrity and standing of the bar, to the administration of justice, and the public's interest. The crime which resulted in Sanders disbarment is considered extremely grave by society and by the Committee. The Committee further notes in this regard that no precedent from this state or elsewhere was cited to the Committee which permitted reinstatement after disbarment based upon the crime to which Sanders plead guilty.

BASED UPON the foregoing Findings of Fact, the hearing committee makes the following:

CONCLUSIONS OF LAW

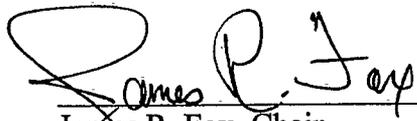
1. Pursuant to 27 NCAC 1B, § .0125(a)(3)(C), taking into account the gravity of the misconduct which resulted in the order of disbarment, the Committee is unable to find based on the current record that Sanders presently possesses the moral qualifications required for admission to practice law in this state.

2. Pursuant to 27 NCAC 1B, § .0125(a)(3)(D), taking into account the gravity of the misconduct which resulted in the order of disbarment, permitting Sanders to resume the practice of law within the state would be detrimental to the integrity and standing of the bar, to the administration of justice, and the public interest.

3. Sanders satisfied or complied with all of the other requirements of 27 NCAC 1B, § .0125(a)(3).

THEREFORE, it is the unanimous recommendation of this hearing committee that the petition for reinstatement of Billy Joe Sanders be denied.

Signed by the Chair with the knowledge and consent of the other members of the hearing committee this the 14th day of September, 1999.



James R. Fox, Chair
Disciplinary Hearing Committee