

WAKE COUNTY  
NORTH CAROLINA



2401

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

THE NORTH CAROLINA STATE BAR,  
Plaintiff

vs.

WALTER T. JOHNSON, JR., Attorney,  
Defendant

CONSENT FINDINGS OF FACT,  
CONCLUSIONS OF LAW, AND ORDER  
OF DISCIPLINE

This matter comes before a hearing committee of the Disciplinary Hearing Commission composed of Elizabeth Bunting, Chair, Carlyn G. Poole, Esq. and Robert B. Frantz. The Plaintiff was represented by Clayton W. Davidson, III, Deputy Counsel. The Defendant, Walter T. Johnson, was represented by Charles T. Francis and Anthony Flanagan. Both parties stipulate and agree to the findings of fact and conclusions of law recited in this consent order, to the discipline imposed, and to the jurisdiction of the Disciplinary Hearing Panel to enter this order. Based upon the consent of the parties, the hearing committee 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 North Carolina and the rules and regulations of the State Bar promulgated pursuant thereto (the "State Bar Rules and Regulations").
2. The Defendant, Walter T. Johnson, Jr. (the "Defendant") was admitted to the State Bar in or about 1964 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 engaged in the practice of law in the State of North Carolina and maintained a law office in Greensboro, North Carolina.
4. The defendant waived his right to a formal hearing.
5. The defendant was properly served with process and was given due notice of the proceedings.

**FIRST CLAIM FOR RELIEF  
ANTHONY G. CLEMENTS, SR.<sup>1</sup>**

6. In or about May of 1996, Mary Bowers ("Bowers") the mother of Anthony G. Clements, Sr. ("Clements") retained Defendant to represent Clements in obtaining post-conviction relief for Clements following a conviction of possession of crack cocaine.
7. The Defendant quoted Bowers a fee of \$2,800.00 to represent Clements and attempt to obtain relief.
8. On May 7, 1996, Bowers paid Defendant \$2,000.00 of the \$2,800.00 fee.
9. In April, 1996, the Defendant met with a potential witness and asked her to sign an affidavit.
10. The Defendant retained the \$2,000.00 fee and did not return any portion of the fee.
11. The Defendant has not yet filed a motion for appropriate relief or any other motion on behalf of Clements.
12. On July 31, 1998, the North Carolina State Bar served a letter of notice on the Defendant requesting that the Defendant respond to a grievance filed against the Defendant by Clements within fifteen days to the letter of notice.

13. The Defendant failed to respond within the time required for response.
14. On August 28, 1998, a follow-up letter was mailed to the Defendant requesting that the Defendant respond by September 8, 1998.
15. The Defendant faxed a response to the North Carolina State Bar on September 9, 1998, which response was dated September 8, 1998.

**SECOND CLAIM FOR RELIEF  
CURTIS SCOTT**

16. Curtis Scott ("Scott") retained the Defendant in October, 1996 to represent him concerning a traffic ticket that Scott received in North Carolina on June 3, 1996.
17. The matter was originally on the calendar in Alamance County on July 1, 1996, but was continued until July 30, 1996, at which time it was called and failed.
18. Scott paid the Defendant \$700.00 by check dated October 23, 1996, which check was negotiated on October 25, 1996.
19. The Defendant did not timely respond to Scott's requests for information about the status of the matter.
20. The Defendant scheduled the matter for hearing and resolved the matter on April 7, 1998.
21. The North Carolina State Bar served the Defendant with a letter of notice on July 3, 1998, which letter of notice required the Defendant to respond within fifteen (15) days.
22. The Defendant failed to respond to the letter of notice within the required time.
23. A follow-up letter was mailed on August 5, 1998, requesting the Defendant to respond in some fashion by August 16, 1998.
24. The Defendant failed to respond until August 17, 1998.

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<sup>1</sup> Headings are added for ease of reference only, correspond to the claims for relief in the complaint, and are not

**THIRD CLAIM FOR RELIEF  
MILTON ALEXIS WILLIAMS, JR.**

25. In 1994, Milton Alexis Williams, Sr. ("Williams Sr.") paid the Defendant \$2,500.00 to represent his son, Milton Alexis Williams, Jr. ("Williams Jr."), in parole procedures or to take other appropriate action to attempt to obtain his release from prison.
26. Two parole hearings were held in 1994 and 1997. Defendant was not present at either hearing, although Defendant did send a representative from his office.
27. Williams Sr. filed a grievance against the Defendant on October 1, 1997.
28. The North Carolina State Bar served a letter of notice on the Defendant on October 20, 1997.
29. The Defendant failed to respond to the letter of notice.
30. On December 10, 1997, a follow-up letter was mailed to the Defendant, asking the Defendant to respond in some fashion by December 19, 1997.
31. The Defendant did not respond to the follow-up letter.
32. The Defendant was subpoenaed to appear at the office of the North Carolina State Bar on April 30, 1998, at which time the Defendant appeared, presented written information, and orally answered the allegations in the letter of notice.

**FIFTH CLAIM FOR RELIEF<sup>1</sup>  
ANN BOYD**

33. In or about March, 1996, Ann Boyd ("Boyd") retained the Defendant to represent her son Tony Bullock ("Bullock") in filing a motion for appropriate relief in a criminal matter.
34. Boyd paid the Defendant a retainer in the amount of \$2,800.00 on or about March 19, 1996.

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intended to augment or limit the substantive findings of fact or conclusions of law contained in the text of this order.  
<sup>1</sup> The allegations contained in the Fourth Claim for Relief were withdrawn by the Plaintiff.

35. The Defendant assigned another attorney in his office, Jacqueline Stanley ("Stanley") to prepare the Motion for Appropriate Relief.
36. Stanley prepared the motion, but it was not filed at the time of its preparation.
37. The Defendant did not timely respond to Boyd's requests for information about the status of the matter.
38. The motion for appropriate relief was not filed for over one year after the Defendant was retained.

Based on the foregoing findings of fact, the hearing committee enters the following:

#### CONCLUSIONS OF LAW

1. All parties are properly before the hearing committee and the committee has jurisdiction over the defendant and the subject matter of this proceeding.
2. The Defendant's foregoing actions constitute grounds for discipline pursuant to NC GEN STAT § 84-28(b)(2) in that the Defendant violated the North Carolina Rules of Professional Conduct<sup>1</sup> as follows:
  - a) By failing to handle client matters with reasonable diligence and promptness, the Defendant violated Superseded Rule 6(b)(3) and Revised Rule 1.3.
  - b) By failing to keep clients informed as to the status of their matters, the Defendant violated Superseded Rule 6(b)(1) and Revised Rule 1.4.
  - c) By failing to timely respond to lawful requests for information from the Grievance Committee, the Defendant violated Superseded Rule 1.1(a).

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<sup>1</sup> To the extent conduct in this matter occurred after July 24, 1997, the effective date of the North Carolina Revised Rules of Professional Conduct (hereafter the "Revised Rules"), the Revised Rules govern this conduct. To the extent the conduct occurred prior to that date the superseded North Carolina Rules of Professional Conduct govern this matter (hereafter the "Superseded Rules").

d) Based on the consent of the parties, the hearing committee also enters the following:

#### **FINDINGS OF FACT REGARDING DISCIPLINE**

1. The Defendant's misconduct is aggravated by the following factors:
  - a) a pattern of neglect;
  - b) multiple violations;
  - c) substantial experience in the practice of law;
  - d) issuance of a letter of warning to the defendant within the three years immediately preceding the filing of the complaint.
2. The Defendant's misconduct is mitigated by the following factors:
  - a) absence of a prior disciplinary record;
  - b) remorse;
  - c) absence of a dishonest or selfish motive;

Based on the forgoing findings of fact and conclusions of law and findings regarding discipline and based on the consent of the parties, the hearing committee enters the following:

#### **ORDER OF DISCIPLINE**

1. The Defendant, Walter Johnson, is hereby suspended from the practice of law for a period of six months.
2. The six-month suspension is stayed for one year on the following conditions:
  - a) The Defendant shall respond to all letters of notice, subpoenas and lawful requests for information from any district grievance committee and the North Carolina State Bar by the deadline stated in the communication, or if none is so stated, by the deadline provided by any applicable law or rules.

- b) The Defendant shall not violate the North Carolina Revised Rules of Professional Conduct. Any violation of the rules shall be sufficient to activate this suspension.
- c) The Defendant shall not violate the laws of the State of North Carolina, the United States, or the various states that make up the United States.
- d) The Defendant shall handle all client matters promptly, shall respond to requests for information from clients in a timely fashion, and shall ensure that the Defendant's case load remains of a manageable size.
- e) The Defendant shall select a member of the Guilford County Bar, to be approved by the Office of Counsel of the North Carolina State Bar (the "Supervising Attorney"), to supervise the Defendant's practice during the one-year stay period. The Defendant shall designate a Supervising Attorney and obtain the approval of the Office of Counsel within fifteen (15) days from the date of this order.
- f) The Defendant shall meet with the Supervising Attorney at least once a month, and shall report to the Supervising Attorney as to the status of all current pending client matters, shall develop a plan of action with projected time frames for handling all client matters and shall further cooperate with the Supervising Attorney and shall provide any additional information requested by the Supervising Attorney which the Supervising Attorney feels is reasonably necessary to ensure that the Defendant's case load remains of a manageable size, that the Defendant handles matters promptly, and that the Defendant responds to requests for information from clients and the North Carolina State Bar in a timely fashion. The cost, if any, of retaining the Supervising Attorney shall be borne by the Defendant.

- g) At least quarterly, the Defendant shall communicate in writing with all clients for whom he has matters pending, and shall maintain copies of such quarterly communications in the client files for such pending matters, and shall provide evidence of such written communication to the North Carolina State Bar, or the Supervising Attorney upon request.
- h) The Defendant shall have Nancy Byerly Jones or another consultant in law office management (the "Consultant") approved by the Office of Counsel of the North Carolina State Bar review his law office practices, make recommendations for changes in office procedures, and provide any necessary training in law office management to the Defendant. The Defendant shall complete the training program of law office management, shall implement all recommendations of the Consultant, and shall submit a statement signed by the Consultant providing that the Defendant has complied with the terms of this paragraph by December 31, 2000.
- i) The Defendant shall provide written quarterly reports to the North Carolina State Bar signed by the Supervising Attorney and the Defendant which certify that the Defendant is in compliance with the terms and conditions of this order. The reports must be received by the Bar on or before the first day of January, April, July, and October of each year that the Defendant is subject to this paragraph.
3. If the Defendant fails to comply with the terms of the stay and the suspension is activated, prior to reinstatement and as a condition of reinstatement, the Defendant must meet the conditions of paragraph 2h, paragraph 4, and must designate a supervising attorney in accordance with the provisions of subparagraph 2e above. Following reinstatement, the Defendant shall comply with the terms of subparagraphs 2f, 2g and 2i above for one year

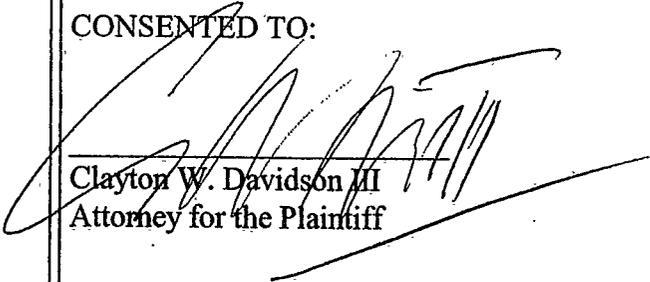
following the reinstatement, and shall be subject to the contempt power of the Disciplinary Hearing Commission if he fails to abide by the terms of this order. The Disciplinary Hearing Commission retains jurisdiction to enforce this order and to impose additional terms and conditions of reinstatement as may be reasonably necessary for the protection of the public.

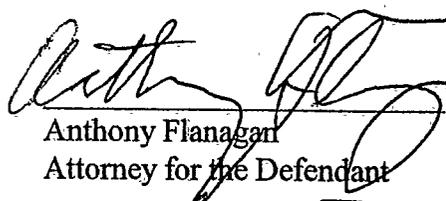
4. The Defendant shall pay all costs of this proceeding permitted by law within thirty days of service of notice of the amount of costs as assessed by the Secretary.

Signed by the undersigned chair with the full knowledge and consent of all other members of the hearing committee this 25 day of July, 2000.

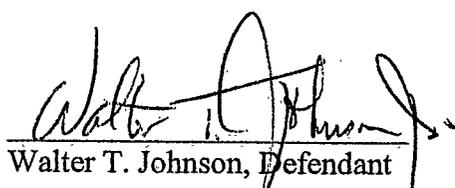
  
Elizabeth Bunting, Chair

CONSENTED TO:

  
Clayton W. Davidson III  
Attorney for the Plaintiff

  
Anthony Flanagan  
Attorney for the Defendant

  
Charles T. Francis  
Attorney for the Defendant

  
Walter T. Johnson, Defendant