

NORTH CAROLINA
WAKE COUNTY

2401
BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
98G1297(III), 98G1420(III), 99G0322, 99G0445,
99G0751, 99G0825, 99G0962, 99G1347

IN THE MATTER OF)
)
WALTER T. JOHNSON, JR.,) REPRIMAND
ATTORNEY AT LAW)
)

On July 19, 2000, the Grievance Committee of the North Carolina State Bar met and considered the grievances filed against you by O. M. D., W. S., B. J., N. S. H., the North Carolina State Bar, and B. H. and F. B.

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, a reprimand, or a 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.

98G1297(III)

The Complainant in this matter retained you to represent her son at a parole hearing. You assigned a non-lawyer employee from your office to handle the matter. You did not personally appear at the parole hearing. The Complainant alleged that she believed that your employee was an attorney who

was representing her. It is your responsibility to adequately supervise your employees, and you failed to do so.

98G1420(III)

You agreed to represent the Complainant's daughter in an effort to get her case reopened and the sentence reduced. The Complainant paid you \$1,900. You made initial attempts to locate a key witness in October 1998. Subsequently, you did not either return the fee, or take any additional action on the matter. You failed to act with reasonable diligence on behalf of your client.

99G0322

You were retained to represent Complainant's husband in January 1998, concerning post-conviction relief. The Complainant paid you \$3,800. Since that time, you have taken action to attempt to locate witnesses and get affidavits from witnesses. Those affidavits have never been forthcoming. No motion for appropriate relief, or other action concerning post-conviction relief, has been filed in the matter. You did not return any of the \$3,800 fee that was paid. The failure to render any appreciable services in exchange for the fee would make the fee clearly excessive, and you failed to act with reasonable diligence on behalf of your client.

99G0445

You were retained in July 1994, and were paid a \$2,500 retainer to assist in obtaining post-conviction relief. In your response you stated that during 1996 and 1997 the Parole Commission made a policy decision not to release inmates from prison with charges similar to Complainant's. You provided no information concerning why between 1994 and 1996 you took no action on behalf of the client to obtain any relief. You failed to act with reasonable diligence on behalf of your client.

99G0751

A fee arbitration petition was filed by a former client of yours on April 5, 1999, 99FD0093. The Chairman of the Greensboro Bar Association Fee Arbitration Committee, William O. Mosely, Jr., notified you of the filing of the fee arbitration petition by letter dated April 9, 1999, and asked you to respond to the allegations. You failed to do so. On April 15, 1999, a mediator, John W. Hardy, wrote a letter to you requesting that you respond. You failed to do so. On May 20, 1999, the mediator again wrote a letter to you asking you to respond. You again failed to do so. Your failure to respond to the fee arbitration petition of the local committee constitutes a failure to cooperate in good faith with the fee arbitration proceeding.

99G0825

A petition for fee arbitration was filed with North Carolina State Bar on March 26, 1999. You were notified of the petition on April 9, 1999. You were requested to respond within 30 days of the date of the notification. You failed to do so. Your failure to cooperate with the local fee arbitration committee constitutes a failure to participate in good faith in the fee arbitration process.

99G0962

The Complainant retained you and paid you \$1,400 in August 1996, for the purpose of obtaining parole release and reduction in his sentence. You stated in your response that at the time you first started working on the case, the North Carolina Parole Commission had adopted a policy that they were taking a very conservative line on persons who were convicted of crimes in the category of the crime of the Complainant. It was not until early 1998 that the Commission's policy began to liberalize. You state that you put your efforts on behalf of Respondent on hold. You did not attempt to get him a hearing

until October 1999. Given that you were retained in 1996, the time frame in which the policy was in place, your actions in accepting the fee and then placing the matter on hold without notifying the client of the fact that you were not proceeding to attempt to obtain parole, would not constitute reasonable diligence on your part.

99G1347

You were retained in 1994 to represent the Complainant in filing a motion for appropriate relief. You stated in your response that your investigation did not reveal sufficient information to justify the filing of a motion for appropriate relief. Your failure to take any action from November 1994 to 1999, and the retention of the fee during that time period is a lack of reasonable diligence on your part.

The foregoing actions constitute violations of Superceded Rule 6.0, and Revised Rules 1.3 and 1.4. In addition, the actions constitute violations of Superceded Rule 2.6 and Revised Rule 1.5. In deciding to issue this reprimand, and not to issue more serious discipline, the Committee took into account your previous disciplinary history, including the fact that you had recently been the subject of an action before the Disciplinary Hearing Commission. It was the hope of the Committee that the conditions placed on your continuing practice of law by the Disciplinary Hearing Commission would be helpful to you, and would enable you to avoid the pattern of rule violations that is evidenced in this reprimand. Consequently, the Committee, in this case, elected to issue this reprimand and not to take any more severe action. Subsequent failures could result in more severe discipline.

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 7 day of August, 2000.


James K. Dorsett, III
Chair, Grievance Committee