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STATE OF NORTH CAROLINA FILED

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

COUNTY OF DURHAM APR -5 PM 4:12

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DURHAM COUNTY, C.S.C.

BY CEJ

IN RE: Vance Barron, Jr.

CONSENT ORDER

THIS MATTER was originally before the Court on February 9, 2000 pursuant to a special assignment from the North Carolina Supreme Court in the case of *Couch v. Duke University*, 94 CVS 454 ("the February 9 hearing"), to consider the imposition of sanctions against counsel for Couch, Maria Sperando ("Ms. Sperando"). Respondent Vance Barron, Jr. (hereinafter, "Mr. Barron") appeared at the February 9 hearing as counsel for Ms. Sperando.

By Order dated May 30, 2000, the Court referred various matters arising from the February 9 hearing to the North Carolina State Bar, including an inquiry into whether Mr. Barron's conduct at that hearing violated the Revised Rules of Professional Conduct. The Court reserved ruling on whether other professional obligations such as Rule 12 of the General Rules of Practice were violated.

On February 21, 2001, the Court received written notice from the North Carolina State Bar that the Grievance Committee had dismissed the grievance against Mr. Barron, but had issued to him a Letter of Warning based upon his conduct at the February 9 hearing. The matter is now before the Court to consider whether Mr. Barron's conduct violated other professional obligations such as Rule 12. For the reasons set forth below, the Court elects to take no further action in this matter, and the same will be dismissed.

THE FEBRUARY 9 HEARING

At the February 9 hearing, Mr. Barron asked Ms. Sperando if she had "ever been disciplined by a court or state bar of any state for improper behavior?" In response, Ms. Sperando testified that she had been "late once, and that was the only time." Ms. Sperando did not disclose to the Court that on December 9, 1999, the Honorable James Vosburgh had entered an order revoking Ms. Sperando's *pro hac vice* admission in another case, based in part on findings that she had violated the Revised Rules of Professional Conduct in connection with that case.

Regardless of whether Judge Vosburgh's order constituted an "order of discipline," Ms. Sperando's response to Mr. Barron's question caused the Court to believe that she was broadening the scope of Mr. Barron's question, and was disclosing every problem she had ever had with a court or bar, no matter how minor.

In his closing argument to the Court, Mr. Barron argued that Ms. Sperando "had no ethical violations in the State of North Carolina. And this one incident, which is already a black mark on her record, is the only black mark we have." Mr. Barron was aware of the terms of Judge Vosburgh's Order, and his statement to the Court was inaccurate and untrue. It further compounded the misimpression created by Ms. Sperando's testimony.

By his actions at the February 9 hearing, Mr. Barron violated his obligation to be candid and honest with the Court. This obligation has deep historical roots.

Certainly since the time of Edward I, through all the vicissitudes of seven centuries of Anglo-American history, the legal profession has played a role all its own. The bar has not enjoyed prerogatives; it has been entrusted with anxious responsibilities. One does not have to inhale the self-adulatory bombast of after-dinner speeches to affirm that all the interests of man that are comprised under the constitutional guarantees given to "life, liberty and property" are in the professional keeping of lawyers. It is a fair characterization of the lawyer's responsibility in our society that he stands "as a shield," [citation omitted] in defense of right and to ward off wrong. From a profession charged with such responsibilities there must be exacted those qualities of truth speaking, a high sense of honor, of granite discretion, of the strictest observance of fiduciary responsibility, that have, throughout the centuries, been compendiously described as "moral character."

Schwartz v. Board of Bar Examiners, 77 S.Ct. 752, 760-761 (1957)(Frankfurter, J., concurring)(emphasis added); see also, G. Sharswood, Professional Ethics 168, 169 (1844)("From the very commencement of a lawyer's career, let him cultivate, above all things, truth, simplicity, and candor; they are the cardinal virtues of a lawyer."); Astles' Case, 594 A.2d 167, 170 (1991).

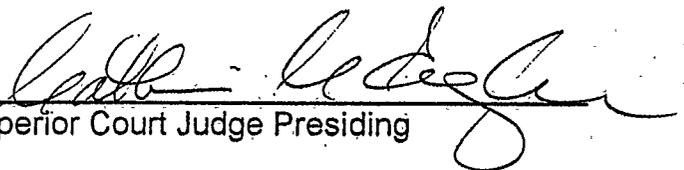
In North Carolina, this professional obligation is reflected among other places in Rule 12 of the General Rules of Practice that governs the conduct of all lawyers appearing in a courtroom: "The conduct of the lawyers before the court and with other lawyers should be characterized by candor and fairness." When a lawyer speaks, the words should be the truth. This obligation is fundamental.

All attorneys have a concurrent obligation to zealously represent a client within the bounds of the law. But this duty to the client does not require a lawyer "to use dishonorable means [or] subterfuge. . . in order to confuse and mislead the court or the jury." State v. Mathis, 293 N.C. 660 (1977). In most every situation, however, and certainly under the facts of this case, a lawyer's duty to represent a client zealously must yield to his duty of candor.

By his signature on this Order, Mr. Barron accepts the Letter of Warning from the North Carolina State Bar, acknowledges that he violated Rule 12 of the General Rules of Practice, and offers his sincere apologies to the Court for his conduct. He further by his signature expresses a renewed awareness of the importance of counsel's duty of candor to the Court and affirms that he has begun to keep and will maintain a "Professionalism" file containing articles, case law and CLE papers on professionalism and a lawyer's duty of candor to the Court, both to serve as a resource when questions arise and as a ready reminder of his obligation.

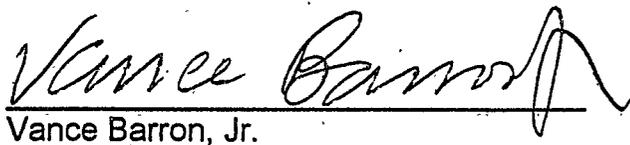
Based on the foregoing, and the Court being satisfied that because Mr. Barron has accepted responsibility for his conduct, is truly sorry, and has shown an understanding of and commitment to meet his obligations to the Court in the future, the Court elects to take no further action in this matter and the same is therefore DISMISSED.

This the 5 day of April, 2001.



Superior Court Judge Presiding

CONSENT:



Vance Barron, Jr.