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WAKE COUNTY
NORTH CAROLINA



DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
02 DHC 16

THE NORTH CAROLINA STATE BAR
PLAINTIFF

v.

PAUL E. HEMPHILL
DEFENDANT

)
) FINDINGS OF FACT
) CONCLUSIONS OF LAW
) AND ORDER
) OF DISCIPLINE
)
)
)

THIS MATTER came on to be heard and was heard on the 9th day of January, 2004 before a duly assigned hearing committee of the Disciplinary Hearing Commission composed of Carlyn G. Poole, Chair; M. Ann Reed and Betty Ann Knudsen. The Defendant, Paul E. Hemphill, appeared on his own behalf. Carolin Bakewell represented the State Bar.

Based upon the pleadings and evidence presented herein, the Hearing Committee hereby enters the following:

FINDINGS OF FACT

1. On April 16, 2003, the Disciplinary Hearing Commission entered an order of discipline which found that Hemphill violated the Revised Rules of Professional Conduct in a number of respects.

2. The order suspended Hemphill's law license for one year and stayed the suspension for two years, based on various conditions. Pursuant to the order, Hemphill was required, inter alia, to

- a) pay all State Bar Membership dues and Client Security Fund assessments on a timely basis.
- b) comply with all Continuing Legal Education requirements on a timely basis.

3. Hemphill was aware of and consented to all of the conditions set out in the April 16, 2003 order of discipline.

4. Hemphill's 2003 N.C. State Bar dues were required to be paid no later than June 30, 2003, a fact of which Hemphill was aware.

5. Hemphill wrote a check to the N.C. State Bar for his mandatory dues and late filing fee on Aug. 19, 2003. The check was posted to the State Bar account on Sept. 2, 2003.

6. Hemphill did not take reasonable steps to pay his State Bar dues in a timely manner.

7. Pursuant to the State Bar's mandatory continuing legal education rules, Hemphill had until Feb. 28, 2003 in which to complete the required 12 hours of continuing legal education for calendar 2002.

8. Hemphill was aware of his CLE requirements and of the Feb. 28, 2003 deadline.

9. As of Feb. 28, 2003, Hemphill had a deficit of 5.75 hours of continuing legal education training courses for calendar 2002.

10. Hemphill took 5.5 hours of CLE on July 30, 2003 and completed the remaining .25 hours of CLE on Dec. 19, 2003.

11. Although Hemphill testified at the show cause hearing herein that he did not complete the mandatory CLE on a timely basis because he could not afford to pay the course registration fees, he failed to take reasonable steps to locate free or low-cost courses and failed to take reasonable steps to pursue other means by which he could have obtained funds to pay the registration fees.

12. The N.C. State Bar Board of Continuing Legal Education assessed \$200 in late filing fees and penalties against Hemphill, based upon his failure to complete his mandatory CLE courses for calendar 2002 on a timely basis. The \$200 penalty included a \$75 late filing fee that was assessed in April 2003 and a \$175 penalty assessed in August 2003.

13. Hemphill did not pay the \$200 in late fees and penalties until Dec. 23, 2003.

Based upon the foregoing Findings of Fact, the Hearing Committee hereby enters the following:

CONCLUSIONS OF LAW

1. Hemphill knowingly and willfully violated the terms of the April 16, 2003 order of discipline herein by failing to complete his mandatory CLE for calendar 2002 on a timely basis, by failing to pay his mandatory 2003 bar dues on a timely basis and by

failing to pay the late fee and penalty assessed against him by the Board of CLE on a timely basis.

2. A total of 30 days of the 1 year suspension of Hemphill's law license should be activated, based upon Hemphill's knowing and willful violation of the April 16, 2003 order of discipline.

3. An order calling for discipline short of an active suspension of Hemphill's law license would not sufficiently protect the public for the following reasons:

a. Hemphill's violations of the April 16, 2003 order extended over a period of approximately 10 months and thus do not appear the result of an isolated act or mistake.

b. Hemphill's failure to comply with his professional obligations is consistent with some of the conduct for which he has been disciplined in the past, and there is therefore a pattern of misconduct on his part. Hemphill failed to establish that he has taken sufficient steps to correct the cause of his misconduct and the Committee is therefore concerned that his misconduct would be repeated if he is allowed to continue practicing law.

c. Hemphill's violations undermine the State Bar's ability to regulate attorneys and undermines the privilege of lawyers in this State to remain self-regulating.

d. Entry of an order imposing lesser discipline would fail to acknowledge the seriousness of the offenses that Hemphill committed, would be inconsistent with orders entered in similar cases and would send the wrong message to attorneys and the public regarding the conduct expected of members of the Bar in this state.

Based upon the foregoing Findings of Fact and Conclusions of Law, the Hearing Committee hereby enters the following:

ORDER OF DISCIPLINE

1. The stay of the suspension of the law license of Paul E. Hemphill is hereby lifted and Hemphill's law license is suspended for a period of 30 days, effective Feb. 1, 2004.

2. The remaining 11-month suspension of Hemphill's license shall be stayed until May 25, 2006, provided Hemphill complies with the conditions set out in the April 16, 2003 order herein. Any violation of the conditions of the stay of the suspension of Hemphill's law license may be grounds for activation of some or all of the suspension.

3. Hemphill shall provide copies to the State Bar of all records regarding therapy appointments and recommendations for treatment or a release allowing disclosure of these records, upon receipt of written request from the State Bar at any time during the


stayed suspension period. A violation of the provision of this paragraph may also be grounds for activation of some or all of the suspension of Hemphill's law license.

4. Prior to resuming the practice of law after the active suspension, Hemphill must file a petition affirming that he has not practiced law during the 1 month period of suspension and that he has complied with the applicable portions of 27 N.C.A.C. Title 1, Subchapter B, Section .0124 of the State Bar Rules.

5. Hemphill shall pay the costs of this proceeding within 30 days of service of the statement of costs upon him by the Secretary of the State Bar.

Signed by the Chair with the consent of the other Hearing Committee members.

This the 22 day of January, 2004.



Carlyn G. Poole, Chair
Disciplinary Hearing Committee