

27045

WAKE COUNTY
NORTH CAROLINA



BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
04 DHC 27

THE NORTH CAROLINA STATE BAR)
Plaintiff)
v.)
MAYUR H. AMIN, ATTORNEY)
Defendant)

ORDER TRANSFERRING
DEFENDANT TO DISABILITY
INACTIVE STATUS

THIS MATTER came on to be heard and was heard on April 22, 2005 before a hearing committee of the Disciplinary Hearing Commission composed of Richard T. Gammon, Chair; Charles M. Davis and Donald Wilhoit. Carolin Bakewell represented the North Carolina State Bar. The Defendant, Mayur H. Amin, did not appear and was not represented by counsel. Based upon the pleadings and the evidence presented at trial, the hearing committee hereby enters the following:

FINDINGS OF FACT

1. The Plaintiff, the North Carolina State Bar, is a body duly organized under the laws of North Carolina and is the proper party to bring this proceeding under the authority granted it in Chapter 84 of the General Statutes of North Carolina, and the Rules and Regulations of the North Carolina State Bar promulgated thereunder.

2. The Defendant, Mayur H. Amin was admitted to the North Carolina State Bar in 1999, and is, and was at all times referred to herein, an attorney at law licensed to practice in North Carolina, subject to the rules, regulations and Rules of Professional Conduct of the North Carolina State Bar and the laws of the State of North Carolina.

3. During a portion of the periods relevant hereto, Amin was engaged in the practice of law in Charlotte, North Carolina. In mid-2003, Amin moved to the state of Texas, where he now resides.

4. On May 21, 2004, the North Carolina State Bar filed a formal complaint against Amin, alleging that he is disabled or, alternatively, that he engaged in violations of the Revised Rules of Professional Conduct.

5. On June 14, 2004, Amin filed a timely answer, denying the allegations in the complaint.

6. On Sept. 14, 2004, on motion of the State Bar and pursuant to N.C. Civ. Pro. Rule 35, the Chair entered an order directing Amin to submit to psychiatric evaluation and to direct that the written report of the evaluation be sent to the State Bar under seal.

7. Amin willfully failed to comply with the Chair's Sept. 14 order.

8. On April 1, 2005, on motion of the State Bar and pursuant to N.C. Civ. Pro. Rule 37, the hearing committee entered an order striking Amin's answer.

9. On April 11, 2005 the Executive Director of the State Bar entered Amin's default.

10. Amin had proper notice of the disability hearing herein.

11. On or about Sept. 12, 2000, Amin appeared in Union County District Court in an action entitled Leake v. Brewer, 96 CVD 12 (hereafter, Leake).

12. Hon. Lisa Thacker (hereafter, Judge Thacker), presided over the trial of the Leake case.

13. During the trial of the Leake case, Amin argued repeatedly with Judge Thacker's rulings. On one occasion, he accused Judge Thacker of being "co-counsel for the plaintiff" in the presence of the jury.

14. On another occasion during the Leake trial, Amin accused opposing counsel, Tim Burch, in open court of participating in a conspiracy against Amin and his client.

15. Judge Thacker ultimately found Amin guilty of direct criminal contempt for his conduct in the Leake case.

16. In April 2002, while appearing as counsel for a defendant in a civil action in Gaston County, Amin accused the plaintiff's attorney of colluding with a witness to present false testimony. Amin told the court that he had seen the plaintiff's attorney and the witness conversing during a break and therefore could draw the conclusion that they were conspiring with one another, although he conceded that he had not overheard their conversation. The accusation was made in open court and an order of mistrial was entered.

17. In May 2002, while appearing as counsel for another defendant in a civil action in Gaston County, Amin caused a mistrial by making improper remarks in his opening statement.

18. During the week of Jan. 27, 2003, Amin represented the plaintiffs in an action captioned Coleman v. Flanders in Mecklenburg County District Court.

17. Hon. Nancy Norelli presided over the Coleman trial.

18. During the course of the Coleman trial, Amin repeatedly argued with Judge Norelli's rulings and used an abrasive tone of voice when addressing the Court.

19. On another occasion during the Coleman trial, Amin referred to Flanders' attorney, Alec Rogers as "a chicken."

20. On March 4, 2003, Amin wrote a letter to Hon. Fritz Mercer, the Chief District Court Judge in Mecklenburg County, concerning the Coleman case.

21. Amin demanded that Judge Mercer investigate what he claimed to be a conspiracy between Judge Norelli and Rogers to sabotage the Coleman trial. In his letter, Amin complained that Judge Norelli and/or Rogers may have:

- a) instructed the court reporter to turn off the courtroom tape recorder during jury selection.
- b) replaced the African American bailiff originally assigned to the hearing with a Caucasian bailiff.
- c) Induced two bailiffs to question Amin about a locked brief case that had been left in the courtroom in an attempt to intimidate Amin and make him look bad in front of the jury.
- d) caused a juror named Stigler to discuss the facts of the Coleman case with his fellow jurors while the trial was ongoing.

22. Although the March 4, 2003 letter was addressed to Judge Mercer, it also listed a number of "potential recipients" of the letter, including the N.C. Judicial Standards Commission, the NAACP, local media, counsel to the Governor and several attorneys in private practice. Amin indicated that the letter would be released to the "potential recipients" if Judge Mercer did not "place certain safeguards in place to at least preserve the appearance of propriety in Judge Norell's courtroom."

23. In July 2003, Amin was charged with driving while impaired. That charge has not been resolved.

24. Amin has been treated for depression and anxiety.

25. In June 2004, Amin wrote a letter to U.S. Attorney General John Ashcroft, in which Amin suggested that his phone had been tapped, his computer sabotaged and that he was being followed. Amin posted the letter on the website of the N.C. Academy of Trial Lawyers and sent a copy to the State Bar.

26. Amin paid a private detective \$500 to investigate his suspicions that two Commission members originally assigned to hear his case had "resigned" upon "discovering unprofessional conduct" by Bar counsel.

27. On Oct. 17, 2004, Amin filed an affidavit in this proceeding in which, among things, he repeated his complaints and accusations about the Coleman trial and accused the Judicial Standards Commission of "ratifying the misconduct" of Judge Norelli.

28. Amin filed numerous pre-trial motions in this proceeding, many of which had no basis in law or fact.

29. Other than handling his own legal matters, Amin does not appear to have engaged in the practice of law in North Carolina since mid 2003.

Based upon the foregoing Findings of Fact, the hearing committee enters the following:

CONCLUSIONS OF LAW

1. The Disciplinary Hearing Commission has jurisdiction over the person of the Defendant and over the subject matter of this proceeding.

2. Amin suffers from a physical or mental condition that significantly impairs his professional judgment, performance or competence as a lawyer within the meaning of 27 NCAC 1, Subchapter B, Section .0103(19) of the State Bar's Discipline & Disability Rules.

WHEREFORE, the Defendant, Mayur H. Amin, is hereby transferred to disability inactive status until such time that he demonstrates by clear, cogent and convincing evidence that he is no longer disabled within the meaning of the State Bar's Discipline & Disability Rules. The disciplinary charges pending against Amin are hereby ABATED until such time that Amin is transferred to active status in this state.

Signed by the Chair with the consent of all hearing committee members.

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This the 27th day of April, 2005.

A handwritten signature in black ink, appearing to read "Richard T. Gammon". The signature is written in a cursive style with a long horizontal flourish at the end.

Richard T. Gammon, Chair
Disciplinary Hearing Committee