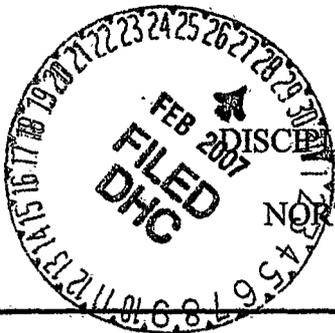


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NORTH CAROLINA

WAKE COUNTY



BEFORE THE DISCIPLINARY HEARING COMMISSION OF THE NORTH CAROLINA STATE BAR 06 DHC 32

THE NORTH CAROLINA STATE BAR, Plaintiff

v.

MARVA L. MCKINNON, 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 Stephen E. Culbreth, Chair, Theodore C. Edwards, and Donald G. Willhoit upon the consent of the parties as to the findings, conclusions and discipline to be imposed. A. Root Edmonson represents the North Carolina State Bar and Marva L. McKinnon is proceeding pro se. Based upon the consent of the parties, the hearing committee makes 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, Marva L. McKinnon, (hereafter, "McKinnon"), was admitted to the North Carolina State Bar in 1978, 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 all of the periods relevant hereto, McKinnon was a resident of Statesville, N.C.
4. On or about May 29, 1998, McKinnon undertook to represent Carrie B. Coble regarding a workers' compensation claim arising out of injuries Coble suffered on the job at her former employer, Black & Decker on or about May 19, 1996.
5. McKinnon did not depose Dr. Henry Pool, a neurosurgeon with Microneurosurgical Specialists of Central Carolina who performed a discectomy and fusion on September 24, 1998 to relieve a central disc herniation at C5-6 and a small disk bulge at C6-7. Dr. Pool's testimony was necessary to link the surgery he performed on Coble to the May 19, 1996 accident.

6. A benefits hearing was held before the Industrial Commission in Coble's case on July 30, 1999. Coble was the only witness McKinnon presented at the hearing.

7. On Nov. 22, 2000, the deputy commissioner assigned to Coble's case entered an order finding, in part, that the medical evidence failed to establish that Coble's disc herniation was caused by or significantly aggravated by Coble's May 19, 1996 accident. The order concluded that neither Black & Decker nor its insurance carrier were responsible for any of Coble's treatment after October 24, 1996, particularly Dr. Pool's surgery. The order also concluded that Coble had failed to establish that she could not earn wages due to her injury and that she was not entitled to temporary total disability benefits.

8. McKinnon failed to advise Coble in writing that she would only have 15 days to file notice of appeal to the full Commission from the November 22, 2000 order. McKinnon's and Coble's recollections differ on whether McKinnon advised Coble that any appeal had to be filed within 15 days.

9. The 15-day appeal period in Coble's case expired on Dec. 7, 2000 without an appeal being filed.

10. McKinnon was relieved as Coble's attorney on Jan. 12, 2001.

11. McKinnon did not deliver Coble's client file to Coble after she withdrew as Coble's attorney because she expected to deliver it to Coble's attorney of choice.

12. Coble later retained substitute counsel, who filed a notice of appeal to the full Commission on her behalf. On Oct. 11, 2002 the appeal was dismissed as untimely.

13. On or about December 3, 2002, McKinnon entered into a consent order of discipline, whereby her law license was suspended for a period of three years, based upon McKinnon's plea of guilty to felony charges of filing false federal income tax returns for the years 1993 - 1995.

14. The order of discipline was served on McKinnon on January 22, 2003 by certified mail, return receipt requested, and became effective on or about February 21, 2003.

15. On or about June 20, 2005, while McKinnon's law license was still suspended, McKinnon drafted a complaint for absolute divorce and custody on behalf of Chona Quinton Parker ("Parker").

16. Thereafter, Parker filed the complaint in Iredell County District Court.

17. On or about August 8, 2005, Hon. Theodore S. Royster, Jr. dismissed Parker's divorce complaint after finding, in part, that the complaint was prepared by an attorney not properly licensed to practice law.

BASED UPON the foregoing Findings of Fact, the hearing committee makes the following:

CONCLUSIONS OF LAW

1. All parties are properly before the hearing committee of the Disciplinary Hearing Commission and the hearing committee has jurisdiction over McKinnon and the subject matter.
2. McKinnon's conduct, as set out above, constitutes grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(b)(2) as follows:
 - (a) By failing to depose Dr. Henry Poole, McKinnon neglected a client matter in violation of Rule 1.3 of the Rules of Professional Conduct and undertook a matter without the requisite preparation reasonably necessary for the representation in violation of Rule 1.1.
 - (b) By drafting a complaint for divorce on behalf of Chona Parker while her law license was suspended, McKinnon engaged in the unauthorized practice of law in violation of Rule 5.5(a).

BASED UPON the foregoing Findings of Fact, the Conclusions of Law, and the evidence presented at the hearing, the hearing committee hereby makes the following:

FINDINGS OF FACT REGARDING DISCIPLINE

1. McKinnon's misconduct is aggravated by the following factor:
 - (a) Prior disciplinary offenses:
 - 1) A 1995 Admonition for failing to hold client/fiduciary funds in a trust account and for failing to hold client funds intact in her business account.
 - 2) A three-year suspension in 02 DHC 10 for a criminal conviction for filing false income tax returns for the years 1993-1995.
2. McKinnon's misconduct is mitigated by the following factors:
 - (a) Absence of a dishonest or selfish motive;
 - (b) Character or reputation.
3. The mitigating factors outweigh the aggravating factor.
4. McKinnon's representation of Coble concluded prior to the suspension imposed in the consent order of discipline in 02 DHC 10.
5. When McKinnon drafted the divorce complaint for Parker, she was attempting to assist a friend. It was an isolated incident. McKinnon did not charge Parker a fee, and was not motivated by personal gain. McKinnon was not motivated to ignore or violate the suspension order, but failed to consider that preparing a legal document for another,

even to assist a friend, was a violation of N.C.G.S. § 84-4, and thus constituted a violation of the suspension order.

6. The hearing committee considered whether a discipline less than a suspension of license was appropriate in this case, but conclude that, given McKinnon's disciplinary history, a suspension was necessary.

7. McKinnon was eligible to petition for reinstatement from the suspension imposed in 02 DHC 10 on February 22, 2006. McKinnon filed a petition for reinstatement on October 2, 2006. McKinnon's reinstatement was objected to by the North Carolina State Bar due to the allegation in this matter that McKinnon practiced law during the suspension by drafting the divorce complaint for Parker. McKinnon's reinstatement petition is resolved contemporaneously herewith by separate order.

BASED UPON the foregoing Findings of Fact Regarding Discipline and the consent of the parties, the hearing committee hereby enters the following:

ORDER OF DISCIPLINE

1. McKinnon is suspended from the practice of law in North Carolina for a period of one year, effective at the end of the suspension imposed in 02 DHC 10.

2. McKinnon will not be required to file a petition for reinstatement from the suspension imposed herein since McKinnon is eligible for reinstatement from this suspension in less than 30 days. McKinnon's reinstatement from the suspension imposed herein will be considered and resolved in the order entered contemporaneously herewith in the reinstatement petition designated as 06 BSR 3.

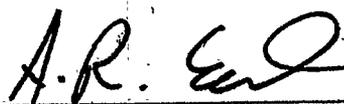
3. McKinnon is taxed with the costs of this action as assessed by the Secretary.

Signed by the chair with the consent of the other hearing committee members, this
the 26 day of February 2007.



Stephen E. Culbreth, Chair
Hearing Committee

CONSENTED TO:



A. Root Edmonson
Deputy Counsel
North Carolina State Bar



Marva L. McKinnon
Pro Se