

5. On March 3, 1997, Crosland was indicted by a grand jury in Mecklenburg County for 24 felony counts of obtaining controlled substances by fraud in violation of N.C. Gen. Stat. §90-108(a)(10).

6. On May 2, 1997, upon his plea of guilty, Crosland was convicted of four of the felony counts of obtaining controlled substances by fraud contained in the March 3, 1997 indictment.

7. The crimes committed by Crosland were crimes showing professional unfitness pursuant to N.C. Gen. Stat. §84-28(b)(1). The crimes were serious crimes as defined by 27 NCAC 1B, § .0103(40).

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

CONCLUSIONS OF LAW

1. All parties are properly before the hearing committee and the committee has jurisdiction over Crosland and the subject matter.

2. Crosland's conduct, as set out in the Findings of Fact above, constitutes grounds for discipline pursuant to N.C. Gen. Stat. §84-28(b)(1) & (2) as follows:

(a) By forging the signatures of his wife and father on prescriptions, giving false information to other doctors to procure prescriptions and altering prescriptions for uncontrolled substances to call for controlled substances, Crosland is subject to discipline pursuant to N.C. Gen. Stat. §84-28(b)(2) in that Crosland engaged in conduct involving dishonesty, fraud, deceit or misrepresentation in violation of Rule 1.2(c) and committed criminal acts that reflect adversely on his honesty, trustworthiness, or fitness as a lawyer in other respects in violation of Rule 1.2(b) of the NC Rules of Professional Conduct

(b) By pleading guilty to and being convicted of obtaining controlled substances by fraud in violation of N.C. Gen. Stat. §90-108(a)(10) Crosland is subject to discipline pursuant to NCGS §84-28(b)(1).

Based upon the foregoing Findings of Fact and Conclusions of Law and upon the evidence and arguments of the parties concerning the appropriate discipline, the hearing committee hereby makes the additional

FINDINGS OF FACT REGARDING DISCIPLINE

1. Crosland's misconduct is aggravated by the following factors:

a. Crosland engaged in a pattern of misconduct;

b. Crosland committed four serious offenses in that he was convicted of four serious felonies involving fraud or deceit;

c. On June 5, 1997, Crosland entered into a consent order which was also signed by Hon. Robert P. Johnston, Superior Court Judge (hereafter, June 5, 1997 consent order). Pursuant to the June 5, 1997 consent order, Crosland was ordered to totally refrain from the use of all mind altering substances including prescription medications and alcohol except as specifically prescribed by Dr. V. Alan Lombardi. Crosland, by his own admission, violated the June 5, 1997 consent order in that he consumed alcohol on January 15, 1998 when he was charged in Cabarrus County for driving while impaired. Crosland registered a .13 on a breathalyzer test upon his arrest.

d. Crosland failed to notify a PALS representative or his probation officer of his violation of the consent order of June 5, 1997 and his Jan. 15, 1998 arrest for driving while impaired.

2. Crosland's misconduct is mitigated by the following factors:

- a. The absence of a prior disciplinary record;
- b. Personal problems;
- c. Physical and mental addiction to controlled substances;
- d. Interim rehabilitation; and
- e. Remorse.

3. The aggravating factors outweigh the mitigating factors.

Based upon the foregoing aggravating and mitigating factors and the arguments of the parties, the hearing committee hereby enters the following

ORDER OF DISCIPLINE

The defendant, David B. Crosland, III, is hereby suspended from the practice of law for three years.

1. At any time after one year from the effective date of this order, Crosland may seek a stay of the remaining active period of the suspension pursuant to the procedures described in 27 NCAC 1B §.0125(b) provided he demonstrates by his petition affidavit, and proves by clear, cogent and convincing evidence to the Disciplinary Hearing Commission if need be, the following:

a. That Crosland has complied with all the provisions set forth in the June 5, 1997 consent order for at least six months prior to petitioning for the stay.

b. That, no later than July 1, 1998, Crosland provided written notice to Judge Johnston and his probation officer of his violation of the June 5, 1997 consent order and his arrest for driving while impaired on Jan. 15, 1998 and that Crosland has sent copies of the written notifications to the Secretary of the North Carolina State Bar.

c. That Crosland has provided written reports every three months, beginning June 1, 1998, to the Secretary of the North Carolina State Bar describing his compliance with the June 5, 1997 consent order, this order of discipline and his progress in recovery.

2. If any portion of the suspension of Crosland's license is stayed as set out in paragraph 1, the stay shall continue only so long as Crosland complies with the following:

a. That Crosland submit to and pay for chemical drug screens, urine or blood, for narcotic drugs or other illicit drugs through National Confederation of Professional Services or other like service approved by the North Carolina State Bar. Crosland must provide the written lab results to the Secretary of the North Carolina State Bar to insure compliance with this order.

b. That Crosland continue to submit written reports every three months to the Secretary of the North Carolina State Bar as to his compliance with the June 5, 1997 consent order, this order of discipline and his progress in recovery, including the lab results of all random drug screens ordered by the National Confederation of Professional Services (or like service approved by the North Carolina State Bar). The written reports shall be due on June 1, Sept. 1, Dec. 1 and March 1 throughout any period of stayed suspension.

c. That Crosland comply with all terms of the June 5, 1997 consent order.

3. If Crosland does not seek a stay of any portion of the three year suspension of his law license, or if the stay is lifted and the suspension is later reinstated for any reason, as a condition of reinstatement of his license at the end of the three year suspension, Crosland shall demonstrate by clear, cogent and convincing evidence:

a. That he has abstained from alcohol and mind-altering drugs, except those prescribed by a physician who is familiar with Crosland's medical history and who has been provided with a copy of this order, for at least six months preceding the date on which Crosland petitions for reinstatement.

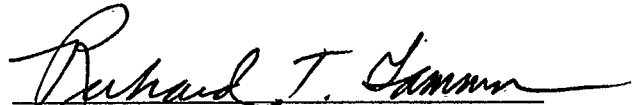
b. Crosland is not suffering from any physical or mental condition that substantially impairs his judgment as a lawyer or his ability to engage in the practice of law in North Carolina without endangering the public.

c. Crosland has paid the costs of this action.

4. Crosland shall comply with 27 NCAC.1B §.0124 of the North Carolina State Bar's Discipline & Disability Rules entitled: "Obligations of Disbarred or Suspended Attorneys."

5. Crosland shall pay the reasonable costs of this action as assessed by the Secretary of the North Carolina State Bar by August 1, 1998.

Signed by the undersigned chair with the full knowledge and consent of the other members of the hearing committee this the 5th day of June 1998.


Richard T. Gammon, Chair
Hearing Committee