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NORTH CAROLINA) IN THE GENERAL COURTS OF JUSTICE
) SUPERIOR COURT DIVISION
 FORSYTH COUNTY 95 APR 12 AM 10:12) 94 CRS 40878
) FORSYTH COUNTY C.S.C.

STATE OF NORTH CAROLINA)
) BY _____)
 vs.) ORDER OF DISCIPLINE
) AND
 DANIEL SMITH JOHNSON,) PUBLIC REPRIMAND
)
 Defendant.)

THIS CAUSE coming on to be heard and being heard before the **HONORABLE WILLIAM H. FREEMAN**, Superior Court Judge Present and Presiding over the April 3, 1995, session of the Forsyth County General Court of Justice - Superior Court Division, as a summary proceeding for the discipline of a member of the Bar of the State of North Carolina;

AND IT APPEARING to the undersigned that the Defendant, **DANIEL SMITH JOHNSON**, was personally present in court and represented by his counsel of record, **CARL F. PARRISH, DONALD K. TISDALE** and **DAVID B. FREEDMAN**, all of the 21st Judicial District-Forsyth County Bar;

AND IT FURTHER APPEARING to the undersigned that the North Carolina State Bar was present by and through its duly authorized representative, **CAROLIN D. BAKEWELL**;

AND IT FURTHER APPEARING to the undersigned that after having considered the allegations against the Defendant, **DANIEL SMITH JOHNSON**, the evidence presented on behalf of **MR. JOHNSON** by way of exhibits which the Court received into evidence, arguments of counsel, and considering the arguments made by **CAROLIN D. BAKEWELL**, representative for the North Carolina State Bar, the Court makes the following:

FINDINGS OF FACT

I.

That the Defendant, his respective counsel, and the North Carolina State Bar through its duly authorized representative, were all present in court on the 3rd day of April, 1995. That all parties are properly before the court, and by consent, all parties, including the North Carolina State Bar by and through its duly authorized representative, **CAROLIN D.**

BAKEWELL, were properly noticed to appear in court to present any and all evidence deemed necessary by the parties for consideration by the Court.

II.

The Defendant, DANIEL SMITH JOHNSON, is an attorney at law, duly licensed in 1976 by the North Carolina State Bar to practice in the State of North Carolina. Subsequent to 1976, MR. JOHNSON has concentrated his practice primarily in the Forsyth County and surrounding areas; however, MR. JOHNSON, has practiced law in a significant number of counties within the State of North Carolina.

III.

The Defendant, DANIEL SMITH JOHNSON, entered a plea of no contest on December 15, 1994, to a Bill of Information charging the Defendant with simple possession of cocaine. The occurrence date of the alleged simple possession of cocaine was 1989.

IV.

At the time the no contest plea was entered, with the consent of the State of North Carolina, by and through the duly elected District Attorney for the Twenty-First Judicial District, THOMAS J. KEITH, and with the consent of counsel for the Defendant and the Defendant, the undersigned Superior Court Judge retained jurisdiction and continued judgment in this matter pending the Defendant's cooperation with the District Attorney's office in an ongoing investigation conducted by a multi-jurisdictional task force. Based upon the consent of the parties, this Court maintained jurisdiction of this matter.

V.

A judgment was rendered by the undersigned on the 3rd day of April, 1995, based upon the no contest plea entered by the Defendant, DANIEL SMITH JOHNSON on December 15, 1994, and without entering a judgment of conviction, the Defendant was sentenced pursuant to North Carolina General Statute § 90-96, as amended. Pursuant to said judgment, if the Defendant completes all terms of said judgment as entered, the matter will be brought before the Court for review with final disposition entered according to North Carolina General Statute § 90-96, as amended.

VI.

Based upon all evidence presented by the State of North Carolina by and through THOMAS J. KEITH, as well as arguments of CAROLIN D. BAKEWELL of the North Carolina State Bar, the Court finds as a fact that the Defendant, in the late 1980's and continuing into the early 1990's, was engaged in the personal use and consumption of the controlled substance, cocaine. The Court specifically finds, based upon all evidence

presented, that the Defendant never sold the controlled substance of cocaine or any other controlled substances; that the Defendant never possessed with the intent to deliver cocaine, or any other controlled substances; nor did the Defendant engage in the laundering of money, concealing of assets, or any other type of illegal activities during this time period.

VII.

The Court specifically finds that the Defendant has had no use of cocaine of any kind since August, 1992, and that when the Defendant was possessing cocaine, the possession of the controlled substance was for the sole purpose of recreational use. Further, there was no evidence to find, and therefore this Court does find that the Defendant never possessed any quantity of controlled substances in excess of the amount which would have been consistent with personal recreational use.

VIII.

Prior to the Defendant being indicted, the Defendant submitted himself for assessment and interview with the PALS Program of the North Carolina State Bar. Subsequent to the said interview and discussions with the Director of the PALS Program, the PALS Program specifically found, by way of exhibits presented to the Court, that the Defendant did not have an active addiction problem which required intervention by the PALS Program. Further, the Defendant voluntarily submitted himself to a substance abuse assessment with Forsyth Psychiatric Associates, and it was determined that the Defendant did not have an addiction to cocaine or any other controlled substance, nor did the Defendant have an active problem with the use of cocaine or any other controlled substance, and the recommendation of the assessing agency, Forsyth Psychiatric Associates, was that the Defendant was not in need of treatment or any other intervention.

IX.

The Court specifically finds that the Defendant freely and voluntarily submitted himself for the above evaluations prior to being indicted. That had the Defendant not been indicted, he would have been a candidate for the Amnesty Program with the North Carolina State Bar; however, because of the indictment, the Defendant is not eligible for the Amnesty Program.

X.

The Court specifically finds that during the years that the Defendant has practiced law before the Courts of the State of North Carolina, the Defendant's representation of his clients was never affected in any manner; that the Defendant rendered excellent legal service and advice to his clients, and has maintained a high standard of professional representation of his clients.

XI.

The Court specifically finds that the Defendant is an attorney of impeccable character by his fellow members of the Bar, as well as current and former judges, other than the allegations as addressed in this Order. Further, the Court finds that the Defendant's legal expertise is exemplary and his abilities as an attorney and his diligence in the representation of his clients has likewise been exemplary.

XII.

The Court finds that the Defendant has violated the Penal Code of the State of North Carolina by the entry of his plea of no contest of the indictment as set forth in 94 CRS 40878. Because of said violation, the Defendant has violated Rule 1.2(B) of the Rules of Professional Conduct of the North Carolina State Bar and therefore should be disciplined.

XIII.

That in entering this judgment, the Court finds that the discipline should be commensurate with the allegations against the Defendant, and likewise should be commensurate with the efforts of the Defendant in the representation of his clients in the past, as well as the current representation of his clients, his current standing as a member of this Bar, and his honesty, trustworthiness and fitness to engage in the practice of law.

BASED UPON THE FOREGOING FINDINGS OF FACT, THE COURT MAKES THE FOLLOWING:

CONCLUSIONS OF LAW

I.

The undersigned has jurisdiction of the person of the Defendant, DANIEL SMITH JOHNSON; that the undersigned has jurisdiction over the subject matter of this proceeding, and all parties are properly before this Court.

II.

The Defendant entered a plea of no contest to the charge of possession of cocaine, and the Defendant has been sentenced pursuant to the provisions of North Carolina General Statute § 90-96. Upon the Defendant's successful completion of the terms of the judgment of the Court, judgment shall be rendered according to the terms of North Carolina General Statute § 90-96.

III.

The Defendant does not have and has not for some time had a physical problem of addiction to any type of controlled substance.

IV.

The Defendant has not violated any other Penal Code of the State of North Carolina.

BASED UPON THE FOREGOING FINDINGS OF FACT AND CONCLUSIONS OF LAW, IT IS THEREFORE ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

1. That the Defendant, DANIEL SMITH JOHNSON, be and he hereby is suspended from the practice of law in the State of North Carolina for a period of six (6) months from April 3, 1995. The activation of this period of suspension is stayed for one (1) year, with the consent of the Defendant, provided that:

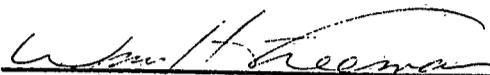
- a. The Defendant shall not use, consume, or possess any controlled substances in violation of the laws of the State of North Carolina or the laws of the United States of America;
- b. The Defendant shall not engage in any conduct which would otherwise violate the Rules of Professional Conduct;
- c. The Defendant shall submit to random drug testing and urinalysis as may be requested by the North Carolina State Bar, and the said urinalysis shall not exceed one urinalysis per month; and said urinalysis shall be performed at the expense of the Defendant;
- d. The Defendant shall comply with the criminal judgment heretofore entered;
- e. The Defendant shall perform two hundred (200) hours of community service; and
- f. The Defendant shall make no less than twelve (12) presentations to schools or other groups of young people concerning the dangers of drug abuse, and said presentations shall be completed within twelve (12) months of the date of this Order.

2. This period of suspension shall be stricken one year from the date of this Order upon a showing that the Defendant has fully complied with the terms and provisions of this Order.

3. In addition, the Defendant is publicly reprimanded for violating Rule 1.2(B) of the Rules of Professional Conduct.

4. The undersigned shall retain jurisdiction over this cause for such other and further proceedings as might be deemed necessary by this Court, by the North Carolina State Bar, or by the Defendant.

This the 11th day of April, 1995, *nunc pro tunc* April 3, 1995.


HONORABLE WILLIAM H. FREEMAN
Superior Court Judge