

NORTH CAROLINA
COUNTY OF WAKE

FILED
1980 APR -1 11 1:30 PM
CLERK OF SUPERIOR COURT
STATE BAR

BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
79 DHC 24

THE NORTH CAROLINA STATE BAR,)
)
Plaintiff,)
)
v.)
)
PETER GREAR, Attorney,)
)
Defendant.)

FINDINGS OF FACT AND
CONCLUSIONS OF LAW

Pursuant to applicable law, the Hearing Commission held a hearing in the above case on February 1, 1980 in Raleigh, North Carolina, at which time evidence was presented by the plaintiff, the North Carolina State Bar, and by the defendant, Peter Grear. Upon the conclusion of said hearing, the Committee makes the following findings of fact and conclusions of law.

FINDINGS OF FACT

1. Sometime during the month of September, 1978, the defendant was contacted by James Torrence, the stepfather of Christopher Spicer, who asked him to aid him in fighting Christopher Spicer's extradition from the State of Pennsylvania to Wilmington, North Carolina to stand trial on charges of armed robbery of the B & J Pool Room in Wilmington, North Carolina, whereby approximately ten people were robbed at gun point.

2. Pursuant to the instructions of Mr. Torrence, the defendant called Barbara Bailey, an attorney in Philadelphia who was representing Spicer. In this conversation, Ms. Bailey advised the defendant that it was her understanding that the alleged victims of the robbery were not interested in having Spicer prosecuted. She stated that she would like to have affidavits or statements from the alleged victims expressing their desire not to prosecute.

3. The defendant, after being further advised by Spicer's stepfather and mother that the alleged victims did not wish to prosecute, contacted these alleged victims and inquired as to whether they wished to prosecute Spicer. After ascertaining that the alleged victims did not wish to prosecute, defendant presented them with an affidavit which he had prepared in advance and had them execute the affidavit.

4. In several instances, the witnesses requested that they be given restitution, if possible. None of the witnesses made the request for restitution a condition precedent to signing the affidavit.

5. Defendant advised Spicer's parents of the desires of certain witnesses who had requested restitution. The parents advised the defendant that they were willing to make restitution and they gave him the necessary sum of money for making restitution to each alleged victim. The defendant then contacted the Police Department to ascertain the amount of money that was reportedly taken from each of the alleged victims in the robbery.

6. After determining the amount of restitution to which each person was entitled, the defendant wrote checks on his trust account for the amount of restitution which had been established. In two instances, in addition to paying the alleged victims the sum they lost in the robbery, the defendant paid them for medical expenses which they had incurred as a result of injuries they had sustained during the course of the robbery.

7. The affidavit which the defendant obtained from each of the victims stated that the victim had no desire to prosecute Spicer or to testify against him and, where applicable, that restitution had been made. The defendant forwarded these affidavits to Barbara Bailey who presented them to the Governor of Pennsylvania in her efforts to stop extradition.

8. Spicer was eventually extradicted and the witnesses who had signed the affidavits were subpoenaed to testify at this

trial. These witnesses appeared and testified.

9. Defendant Grear at no time counseled any potential witness not to testify against Spicer or to give untruthful testimony. Neither did he offer any potential witnesses restitution in return for an agreement not to prosecute.

10. The defendant Grear prepared the affidavits and had them executed knowing that they would be used in legal proceedings and he made the restitution payments through his trust account, knowing there would be a full record of each such payment.

CONCLUSIONS OF LAW

1. The conduct of the defendant in preparing affidavits expressing the desire of the witnesses not to prosecute or not to testify and in transmitting restitution to the witnesses did not amount to unprofessional conduct.

2. The plaintiff, the North Carolina State Bar, has failed to establish by the greater weight of the evidence that the defendant violated any of the disciplinary rules as alleged in the Complaint.

This 3rd day of March, 1980.

Jerry L. Jarvis

CHAIRMAN, HEARING COMMITTEE

Ralph C. Binkley

MEMBER, HEARING COMMITTEE

Leander R. Morgan

MEMBER, HEARING COMMITTEE

NORTH CAROLINA
COUNTY OF WAKE

FILED
1980 APR -1 10:00 AM
BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
79 DHC 24

THE NORTH CAROLINA STATE BAR,)
)
 Plaintiff,)
)
 v.)
)
 PETER GREAR, Attorney,)
)
 Defendant.)

ORDER OF DISMISSAL

This cause come on to be heard on February 1, 1980 before a Hearing Committee consisting of Mr. Jerry L. Jarvis, Chairman, Mr. Leander R. Morgan, and Mr. Ralph C. Gingles, Jr. After hearing the evidence from the plaintiff and from the defendant, the Committee is of the opinion that the plaintiff failed to establish by a preponderance of the evidence the violations alleged in the Complaint and this cause should therefore be dismissed.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that this action be and the same hereby is dismissed.

This 31st day of March, 1980.

Jerry L. Jarvis
CHAIRMAN, HEARING COMMITTEE

Ralph C. Gingles, Jr.
MEMBER, HEARING COMMITTEE

Leander R. Morgan
MEMBER, HEARING COMMITTEE