

3957

NORTH CAROLINA

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
00G0179

WAKE COUNTY

IN THE MATTER OF)

DAVID R. SHEARON,)
ATTORNEY AT LAW)

REPRIMAND

On April 25, 2001, the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by H.S.Jr.

Pursuant to section .0113(a) of the Discipline and Disability Rules of the North Carolina State Bar, the Grievance Committee conducted a preliminary hearing. After considering the information available to it, including your response to the letter of notice, the Grievance Committee found probable cause. Probable cause is defined in the rules as "reasonable cause to believe that a member of the North Carolina State Bar is guilty of misconduct justifying disciplinary action."

The rules provide that after a finding of probable cause, the Grievance Committee may determine that the filing of a complaint and a hearing before the Disciplinary Hearing Commission are not required, and the Grievance Committee may issue various levels of discipline depending upon the misconduct, the actual or potential injury caused, and any aggravating or mitigating factors. The Grievance Committee may issue an admonition, a reprimand, or a censure to the respondent attorney.

A reprimand is a written form of discipline more serious than an admonition issued in cases in which an attorney has violated one or more provisions of the Rules of Professional Conduct and has caused harm or potential harm to a client, the administration of justice, the profession, or a member of the public, but the misconduct does not require a censure.

The Grievance Committee was of the opinion that a censure is not required in this case and issues this reprimand to you. As chairman of the Grievance Committee of the North Carolina State Bar, it is now my duty to issue this reprimand, and I am certain that you will understand fully the spirit in which this duty is performed.

Prior to August 1996, you undertook to represent H.S.Jr. regarding a civil action filed against H.S.Jr. by Mr. & Mrs. L. In late July 1997, the Ls' attorney served you with discovery requests, the answers to which were due on Sept. 2, 1997. You did not serve timely responses to the discovery requests, nor did you seek an extension of time in which to respond. In fact, you did not meet with H.S.Jr. to review the responses until late October or early November 1997. There is no evidence that you warned H.S.Jr. about the possible consequences of ignoring the discovery

requests. Although you ultimately filed unsigned discovery responses on Dec. 8, 1997, the court imposed \$250 in sanctions against H.S.Jr. You agreed to pay for the sanctions, but did not do so. Your conduct in failing to file timely discovery responses on behalf of your client violated Rule 1.3 of the Revised Rules of Professional Conduct.

Thereafter, H.S.Jr. filed a grievance against you with the State Bar. You were served with the letter of notice and substance of grievance on Feb. 28, 2000. Although your answer was due on March 20, 2000, you did not file a timely response nor did you seek additional time in which to answer. A follow up letter was sent to you by the Bar, directing you to respond to the letter of notice later than April 21, 2000. When you still did not respond, the Bar was forced to issue a subpoena to you, directing you to appear at the Bar's offices and respond to the grievance on Aug. 22, 2000. Prior to Aug. 22, you filed a written response to the grievance and asked Bar counsel to release you from the subpoena. Bar counsel agreed to do this, but only on condition that you agreed to provide more information if needed.

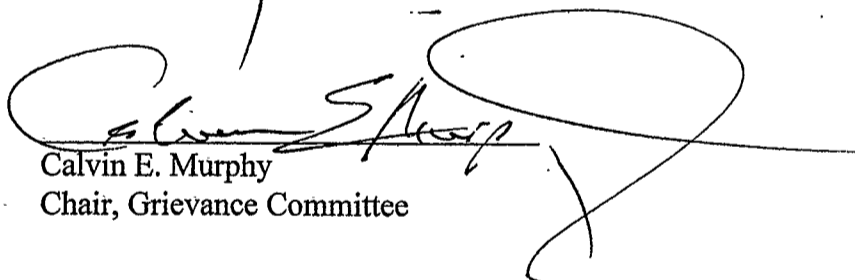
On Aug. 24, 2000, upon reviewing your response, Bar counsel wrote to you requesting more information. You did not respond to the Aug. 24, 2000 letter and the State Bar was forced to subpoena you a second time before you provided a complete response. Your conduct in failing to file timely and complete responses to the State Bar's letter of notice and follow up letters in this matter constituted violations of Rule 8.1 of the Revised Rules of Professional Conduct.

Your misconduct in this matter is aggravated by the fact that you were admonished by the State Bar in 1999 for neglecting a client matter, failing to communicate with the client and failing to respond in a timely fashion to the State Bar's letter of notice.

You are hereby reprimanded by the North Carolina State Bar due to your professional misconduct. The Grievance Committee trusts that you will heed this reprimand, that it will be remembered by you, that it will be beneficial to you, and that you will never again allow yourself to depart from adherence to the high ethical standards of the legal profession.

In accordance with the policy adopted October 15, 1981 by the Council of the North Carolina State Bar regarding the taxing of the administrative and investigative costs to any attorney issued a reprimand by the Grievance Committee, the costs of this action in the amount of \$50.00 are hereby taxed to you.

Done and ordered, this 26 day of May, 2001.


Calvin E. Murphy
Chair, Grievance Committee