

STATE OF NORTH CAROLINA

FILED IN THE GENERAL COURT OF JUSTICE

BRUNSWICK COUNTY

2007 MAY 30 DISTRICT COURT DIVISION

BRUNSWICK COUNTY FILE NO. 07 JB 55

BY 

IN RE THE MATTER OF MICHAEL PAUL CAVINESS

This matter coming on to be heard, and being heard, by the Honorable Douglas B. Sasser, District Court Judge of the 13th Judicial District, during his May 25, 2007 session of district court in Brunswick County; and the court, upon hearing the evidence presented, makes the following FINDINGS OF FACT by the greater weight of the evidence:

1. That Michael Paul Caviness is a practicing attorney, duly licensed in the State of North Carolina.
2. That Michael Paul Caviness regularly represents court-appointed clients in court cases before the undersigned judge.
3. That on May 21, 2007, Michael Paul Caviness submitted several fee applications to the undersigned judge, including three fee applications requesting payment for three cases disposed of during the undersigned judge's session of juvenile court in Brunswick County on May 16, 2007.
4. That the fee application in File No. 07 JB 83 claimed .05 hours in court, 3.5 hours in court waiting, and 5.0 hours out of court.
5. That the fee application in File No. 07 JB 81 claimed .05 hours in court, 2.0 hours in court waiting, and 5.0 hours out of court.
6. That the fee application in File No. 07 JB 65 claimed .05 hours in court, 3.5 hours in court waiting, and 5.75 hours out of court.
7. That the May 16, 2007 session of juvenile court held by the undersigned judge commenced at 9:30 a.m. and concluded at 10:57 a.m. that same morning.
8. That all three cases referenced above were first court settings, and that Michael Paul Caviness could not have spent more than 1.5 hours in court on any of the cases.
9. That all together, Michael Paul Caviness requested payment of 10.5 hours court time for a court session that lasted only 1.5 hours.

10. That Michael Paul Caviness has requested payment of 15.75 hours of out of court time for the three cases.
11. That the three above-referenced cases involved a misdemeanor breaking and entering charge in one case, a misdemeanor simple assault charge in the second case, and probation violation hearing in the third case.
12. That all three cases were disposed of by admissions and were not matters of an extremely complex or serious nature.
13. That the amount of out of court time claimed by Michael Paul Caviness in regards to each of the three above-referenced cases is excessive and unreasonable.
14. That Michael Paul Caviness has acknowledged billing multiple clients for the same time periods in court, rather than prorating his fees among the clients.
15. That Michael Paul Caviness has failed to show to the court's satisfaction that the fees submitted to the court regarding the above-referenced cases are fair and reasonable or that their submission to the undersigned judge is the result of excusable neglect, mistake, or oversight.
16. That the above-mentioned fee applications submitted by Michael Paul Caviness are grossly excessive and unreasonable and his submission of the same to the court constitutes sanctionable action.
17. That Michael Paul Caviness should be publicly admonished for his actions and should be sanctioned by the court for the same.
18. That as a condition of his sanction, Michael Paul Caviness should be prohibited from further representation of any court-appointed clients before the undersigned judge until such time, if any, that the Honorable Douglas B. Sasser notifies said Michael Paul Caviness that he may again practice before said judge.
19. That as a condition of his sanction, Michael Paul Caviness, pursuant to authority granted to the undersigned judge by the Honorable Jerry A. Jolly, Chief District Court Judge for the 13th Judicial District, should be prohibited from accepting any court-appointed clients in any district court proceedings in the 13th Judicial District for the period from May 25, 2007 until November 25, 2007.
20. That as a condition of his sanction, all fee applications submitted to the Honorable Douglas B. Sasser by Michael Paul Caviness on May 21, 2007 should be denied and said Michael Paul Caviness should receive no payment in regards to those fee applications.

21. That this order should be entered as a general civil proceeding and be filed in each of the three counties of the 13th Judicial District.

Based upon the foregoing Findings of Fact, THE COURT CONCLUDES AS A MATTER OF LAW as follows:


1. That the court has personal and subject matter jurisdiction in regards to this proceeding.
2. That the above-described actions of Michael Paul Caviness deserve public admonition and are sanctionable by the court pursuant to the inherent powers of the court.
3. That Michael Paul Caviness should be admonished and sanctioned by the court for his actions.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED as follows:

1. That Michael Paul Caviness is hereby admonished by the court for his submission of fee applications requesting grossly excessive and unreasonable payments of court-approved funds.
2. That Michael Paul Caviness is hereby sanctioned by the court and as a condition of his sanction he is prohibited from further representation of any court-appointed clients before the undersigned judge until such time, if any, that the Honorable Douglas B. Sasser notifies said Michael Paul Caviness that he may again practice before said judge.
3. That also as a condition of his sanction, Michael Paul Caviness, pursuant to authority granted to the undersigned judge by the Honorable Jerry A. Jolly, Chief District Court Judge for the 13th Judicial District, is prohibited from accepting any court-appointed clients in any district court proceedings in the 13th Judicial District for the period from May 25, 2007 until November 25, 2007.
4. That as a further condition of his sanction, all fee applications submitted to the Honorable Douglas B. Sasser by Michael Paul Caviness on May 21, 2007 are hereby denied and said Michael Paul Caviness shall receive no payment in regards to those fee applications.
5. That this order shall be assigned a file number and be entered as a general civil proceeding by the respective Clerks of Superior Court in Brunswick, Bladen, and Columbus Counties and that no filing fees or costs are to be required in regards to said files.
6. That the Clerks of Juvenile Court for Brunswick and Columbus Counties are to immediately identify all court-appointed clients with cases currently pending on their court dockets whom Michael Paul Caviness has been assigned to represent, and are to assign new counsel to said clients.

7. That the Clerks of Juvenile Court for Brunswick and Columbus Counties are to notify, in writing, each of Michael Paul Caviness' former clients, informing them that the court has assigned each of them new legal counsel and advising them of the name, address, and telephone number of their new attorney. The notice to be sent by the Clerks shall also notify Michael Paul Caviness' former clients of their next court date and shall inform them that they should contact their newly assigned attorney as soon as possible in regards to their case.
8. That the Clerks of Juvenile Court for Brunswick and Columbus Counties are to notify Michael Paul Caviness, in writing, as to whom each of his former clients are reassigned to.
9. That Michael Paul Caviness is to turn over any files in his possession regarding his former clients to the appropriate newly appointed counsel and to provide them with any other pertinent information or items he has in his possession concerning each former client's case.
10. That the Sheriff of Brunswick County is to have a copy of this order served upon Michael Paul Caviness and, upon doing so, is to submit a return of service to the Clerk of the Superior Court of Brunswick County to include in the Clerk's file.

This the 25th day of May, 2007.


The Honorable Douglas B. Sasser
District Court Judge, 13th Judicial District