

NORTH CAROLINA
WAKE COUNTY



464
BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
93 DHC 27

THE NORTH CAROLINA STATE BAR,
Plaintiff

vs.

ROLAND C. BRASWELL, ATTORNEY
Defendant

CONSENT ORDER OF DISCIPLINE

THIS MATTER, coming before the undersigned Hearing Committee of the Disciplinary Hearing Commission pursuant to Section 14(H) of Art. IX of the Discipline & Disbarment Procedures of the North Carolina State Bar; and it appearing that both parties have agreed to waive a formal hearing in this matter and it further appearing that both parties stipulate and agree to the following Findings of Fact and Conclusions of Law recited in this Consent Order and to the discipline imposed, the Hearing Committee therefore enters the following:

FINDINGS OF FACT

1. The Plaintiff, the North Carolina State Bar, is a body duly organized under the laws of North Carolina and is the proper party to bring this proceeding under the authority granted it in Chapter 84 of the General Statutes of North Carolina, and the Rules and Regulations of the North Carolina State Bar promulgated thereunder.

2. The Defendant, Roland C. Braswell, was admitted to the North Carolina State Bar in 1952, and is, and was at all times referred to herein, an Attorney at Law licensed to practice in North Carolina, subject to the rules, regulations, and Rules of Professional Conduct of the North Carolina State Bar and the laws of the State of North Carolina.

3. During all of the periods referred to herein, Braswell was actively engaged in the practice of law in the State of North Carolina and maintained a law office in the City of Goldsboro, Wayne County, North Carolina.

4. Braswell did not file federal or state income tax returns for the calendar years 1986 through 1991 on a timely basis and did not pay income tax due for those years on a timely basis.

5. On or about March 29, 1993, Braswell pled guilty in

federal court to six counts of failure to file federal income tax returns in violation of 26 U.S.C. Section 7203.

6. On or about March 29, 1993, in open court, Braswell admitted his guilt to the charges of failure to file federal income tax returns for the calendar years 1986 - 1991.

7. Braswell has now filed his state and federal tax returns for the years 1986 - 1991.

8. On or about July 6, 1993, Braswell's license to practice law in North Carolina was suspended on an interim basis, pursuant to Art. IX, Section 15 of the Discipline & Disbarment Rules of the North Carolina State Bar.

8. Braswell ceased practicing law pursuant to the interim suspension order and has not practiced law since July 6, 1993.

9. Braswell received a private reprimand from the N.C. State Bar in 1977, was suspended from the practice of law for 90 days in 1982 and received an admonition (formerly a private reprimand) from the N.C. State Bar in 1992.

10. Braswell has readily admitted his failure to file timely income tax returns and has cooperated with the N.C. State Bar regarding this disciplinary matter.

CONCLUSIONS OF LAW

1. By failing to file timely state and federal income tax returns for the calendar years 1986 - 1991, inclusive, Braswell engaged in conduct involving dishonesty in violation of Rule 1.2(C) of the Rules of Professional Conduct and committed criminal acts which reflect adversely on his honesty, trustworthiness or fitness as a lawyer in other respects, in violation of Rule 1.2(B) of the Rules of Professional Conduct.

2. Braswell's misconduct is aggravated by the following facts: 1) he has previously been disciplined by the N.C. State Bar; 2) he has substantial experience in the practice of law; 3) his misconduct was motivated by a selfish motive and 4) he engaged in multiple acts of misconduct.

3. Braswell's misconduct is mitigated by the following facts: 1) he has admitted his misconduct and 2) he has cooperated with the N.C. State Bar.

Based upon the consent of the parties and the foregoing Findings of Fact and Conclusions of Law, the Committee hereby enters the following:

ORDER OF DISCIPLINE

1. The Defendant, Roland Braswell, is hereby suspended from the practice of law for five years, with all but one year of the suspension stayed, upon the following conditions:

- a. Braswell shall violate no laws and no provisions of the Rules of Professional Conduct during the five year period beginning on July 6, 1993.
- b. Braswell shall timely file state and federal tax returns and shall timely pay all state and federal taxes within the five years from July 6, 1993. No later than April 30 of each year during the five year period beginning on July 6, 1993, Braswell shall submit written certification to the Secretary of the N.C. State Bar, demonstrating that he has timely filed tax returns and paid taxes due.

2. As a condition precedent to reinstatement, Braswell shall submit written proof the Secretary of the N.C. State Bar demonstrating that he has paid all taxes, penalties and interest owed on his state and federal taxes for the years 1986 - 1991.

3. The one year active suspension of Braswell's license shall be deemed to run retroactively from July 6, 1993, the date upon which Braswell ceased practicing law.

4. Braswell shall pay the costs of this proceeding.

This order is signed by the Chair of the Hearing Committee with the express consent of all parties and the other members of the Hearing Committee.

This the 27th day of June, 1994.



Frank E. Emory, Jr., Chair
Disciplinary Hearing Committee

Seen and consented to:

John P. O'Hale

John P. O'Hale, Defendant's attorney

Roland C. Braswell

Roland Braswell, Defendant

Carolyn Bakewell

Carolyn Bakewell, Plaintiff's attorney