

14226

NORTH CAROLINA

WAKE COUNTY

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
92G0960 (IV) R

IN THE MATTER OF)

JOSEPH F. LYLES,)
ATTORNEY AT LAW)

REPRIMAND

On October 27, 1993, the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by Mark S. Patton.

Pursuant to section 13(A) of article IX of the Rules and Regulations 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, reprimand, or 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.

You agreed to represent Mark Patton on a first degree murder charge in August of 1991. You later agreed to represent Mr. Patton in a domestic action filed by his wife. Despite your protestation to Mr. Patton that you did not handle domestic cases because you did not believe you were particularly competent to do so, you agreed to represent him in his domestic action. Due to

some misunderstanding, an answer was not timely filed and a default judgment was entered. You did set aside a portion of the default judgment which dealt with the distribution of martial property. You were given additional time to file an answer and an answer was filed on December 4, 1991.

On February 4, 1992, you were noticed to appear for a pretrial hearing on April 10, 1992 and to serve the opposing counsel with equitable distribution affidavits at least 10 days prior to the pretrial conference. You did not file the affidavits and you did not appear for the pretrial conference on April 10, 1992. You stated that you were unable to attend the prehearing conference due to transportation problems.

The trial was held on April 22, 1992 and you did not appear. Judgment was entered against Mr. Patton at that time. You gave notice of appeal to the North Carolina Court of Appeals on May 22, 1992. However, you did not perfect the appeal.

Your failure to attend to Mr. Patton's domestic case violates Rule 6(B)(3) of the Rules of Professional Conduct. That rule requires an attorney to act with reasonable diligence and promptness in representing the client. Your failure to file the necessary affidavits and attend the prehearing conference are not excused by your difficulties in getting transportation to court. The interest of your client should have been your primary concern.

Furthermore, your failure to adequately represent Mr. Patton in the domestic case prejudiced or damaged him during the course of your professional relationship in violation of Rule 7.1(A)(3).

The Grievance Committee appreciates your candor with respect to your admission that you were not competent to handle domestic cases. Rule 6(A)(1) of the Rules of Professional Conduct provides that a lawyer shall not handle a legal matter which he knows or should know that he is not competent to handle without associating with him a lawyer who is competent to handle the matter. Although you may have felt inclined to assist Mr. Patton in his domestic case, you had an ethical obligation to refuse employment in the area since you did not believe you were particularly competent in domestic cases.

Mr. Patton filed a grievance against you with the North Carolina State Bar on September 17, 1992. The grievance was referred to the 26th Judicial District Grievance Committee for investigation. Upon the completion of the investigation of the grievance, the 26th Judicial District Grievance Committee referred the case back to the State Bar. A staff attorney directed additional questions to you by letter dated July 30, 1993. You were asked to provide responses to those questions within 10 days of the date of the letter. You failed to respond to those additional questions.

Your failure to respond to the staff attorney's inquiries violates Rule 1.1(B) of the Rules of Professional Conduct. An attorney is required to respond to a lawful demand for information from a disciplinary authority during the

investigation of charges of ethical misconduct. You are advised to respond promptly to all inquiries made by the State Bar regarding a grievance filed against you.

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 4th day of November,
1993.

W. Erwin Spainhour
W. Erwin Spainhour, Chairman
The Grievance Committee
North Carolina State Bar

[982]

00156