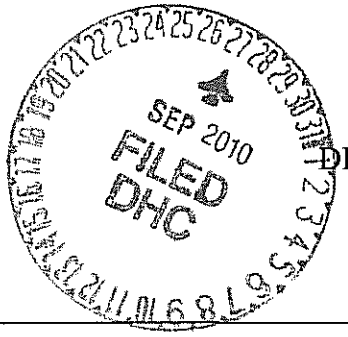
NORTH CAROLINA

WAKE COUNTY



BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
10 BCR 1

IN THE MATTER OF:	)	
	)	
PETITION FOR REINSTATEMENT OF	)	ORDER DISMISSING
	)	PETITION FOR REINSTATEMENT
LARRY R. LINNEY	)	

This matter came on for hearing on September 10, 2010 before a panel of the Disciplinary Hearing Commission composed of J. Michael Booe, Chair, Robert F. Siler, and Karen B. Ray; with A. Root Edmonson appearing on behalf of the North Carolina State Bar and with Larry R. Linney not appearing and not represented by counsel. Based upon the relevant documents before the panel, the panel makes the following:

Findings of Fact

1. On July 8, 2010, petitioner, Larry R. Linney, filed a petition for reinstatement and a petition for waiver of the requirement that he provide notice of his intent to do so.

2. On July 28, 2010, the Chair of the Disciplinary Hearing Commission assigned the current panel to hear this matter at 11:00 a.m. on September 10, 2010.

3. On August 25, 2010, respondent, the North Carolina State Bar, filed a motion to deny the petition for waiver of notice and a motion to dismiss the petition for reinstatement.

4. On August 31, 2010, petitioner sent a notice of intent to seek reinstatement to the editor of the North Carolina State Bar's *Journal* to be published in a future edition of that publication. Petitioner also sent notice to those considered to be the complainant and victim of his misconduct that resulted in his disbarment.

5. In light of the gravity of petitioner's petition to waive notice, the North Carolina State Bar's response and its motion to dismiss, the Chair of the panel decided that those two matters would be heard by the panel, rather than by the Chair alone, at the time previously set for hearing of the petition for reinstatement. For the convenience of petitioner and the panel not having to travel to Raleigh, the matter was scheduled to be heard by telephone conference call. Petitioner was notified of the time, date, method and scope of the hearing.

6. Thereafter, petitioner sent Mr. Booe and Mr. Edmonson a number of other motions and requests, some signed and some unsigned, including a signed motion to withdraw

petition for waiver of notice that was filed with the Disciplinary Hearing Commission on September 7, 2010.

7. On September 8, 2010, the Chair again notified petitioner that the hearing on September 10, 2010 would be limited to the petition to waive notice, respondent's response to that petition and respondent's motion to dismiss.

8. On September 9, 2010, petitioner sent email notice to the Chair that he would not attend the September 10, 2010 hearing by telephone or in person.

9. At the inception of the telephone conference call, the conference operator advised that she could not get petitioner on the conference call. The Chair asked the conference operator to attempt to reach petitioner at the cell phone number petitioner had given the Chair in his September 9, 2010 email. The conference operator could not connect petitioner to the conference call. The conference call hearing proceeded without petitioner's participation.

10. Petitioner's motion to withdraw petition for waiver of notice stated unequivocally that "petitioner no longer desires, or deems it necessary, for the Hearing Committee [sic] to consider or rule on the Petition to Waive Notice filed by the Petitioner."

11. Petitioner failed to file a notice of intent to seek reinstatement in an official publication of the North Carolina State Bar not more than six months or less than 60 days before filing his petition for reinstatement.

12. Petitioner also failed to notify the complainant from the disciplinary proceeding which led to his disbarment of his notice of intent to seek reinstatement not more than six months or less than 60 days before filing the petition for reinstatement.

BASED UPON the foregoing Findings of Fact, the panel makes the following:

Conclusions of Law

1. The panel has jurisdiction over the petitioner and the subject matter of the issues to be determined at the hearing.

2. Petitioner's petition for waiver of notice was rendered moot by his motion to withdraw that petition.

3. Petitioner failed to comply with the requirements of 27 N.C.A.C. 1B, § .0125 (a)(3)(A) and (B) prior to filing his petition for reinstatement.

4. As a result of petitioner's failure to timely comply with the requirements of 27 N.C.A.C. 1B, § .0125 (a)(3)(A) and (B), respondent's motion to dismiss the petition for reinstatement should be granted.

5. Dismissal of the petition for reinstatement is not an order denying reinstatement

within the meaning of 27 N.C.A.C. 1B, § .0125(a)(12). Petitioner may again petition for reinstatement as soon as he has complied with all pre-petition requirements.

Therefore, based upon the foregoing Findings of Fact and Conclusions of Law, the panel enters the following **ORDER**:

1. Respondent's motion to dismiss petitioner's petition for reinstatement is **granted.**

2. Petitioner's July 8, 2010 petition for reinstatement is **dismissed**, without prejudice.

3. This order is not an order denying reinstatement within the meaning of 27 N.C.A.C. 1B, § .0125(a)(12).

Signed by the Chair with the knowledge and consent of the other panel members this the 23rd day of September 2010.

J. Michael Booe, Chair