

NORTH CAROLINA

WAKE COUNTY

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
02G0904

760

IN THE MATTER OF)

W. ROBERT CAUDLE II,)
ATTORNEY AT LAW)

REPRIMAND

On July 23, 2003, the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by Dr. Nathan R. Strahl.

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.

While acting as District Attorney in Prosecutorial District 6A, you prosecuted Lionel Lewis Rogers for first-degree murder in Halifax County Superior Court. In the death penalty phase of that murder trial, Dr. Nathan R. Strahl testified for the defendant. As found by the Supreme Court of North Carolina in their opinion issued May 10, 2002, you committed prosecutorial misconduct in your examination of Dr. Strahl, and made improper arguments to the jury concerning Dr. Strahl's testimony. As the court found, you went beyond ascribing the basest of motives to Dr. Strahl's expert opinion, but also indulged in *ad hominem* attacks, disparaged Dr. Strahl's area of expertise, and distorted Dr. Strahl's

testimony. You failed to conduct yourself with the probity and dignity consistent with the gravity of the death penalty proceeding. Your conduct caused the court to rule that the defendant was entitled to a new capital sentencing proceeding. By asking irrelevant questions intended to degrade Dr. Strahl as a witness, you violated Rules 3.4(e). In representing the interests of the state in this case, you also used means that had no substantial purpose other than to embarrass or burden Dr. Strahl, in violation of Rule 4.4. By causing the state to have to conduct another sentencing hearing of the defendant due to your misconduct, you engaged in conduct that is prejudicial to the administration of justice, in violation of Rule 8.4(d).

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 6 day of August, 2003.

Sharon B. Alexander
Sharon B. Alexander
Chair, Grievance Committee