

10729

11 92 10:2

NORTH CAROLINA
WAKE COUNTY

BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
92 DHC 8

THE NORTH CAROLINA STATE BAR,)
Plaintiff)
)
vs.)
)
FRANCIS CRAIG WILLIS, ATTORNEY)
Defendant)

FINDINGS OF FACT
AND CONCLUSIONS OF LAW

This cause was heard by a Hearing Committee of the Disciplinary Hearing Commission consisting of Maureen Demarest Murray, Chair; James Burney and Fred Folger, Jr., on Friday, June 12, 1992. The plaintiff was represented by Carolin Bakewell. The defendant did not appear nor was he represented by counsel at the hearing. Based upon the pleadings and evidence, the Committee makes 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, Francis Craig Willis, (hereafter, Willis), was admitted to the North Carolina State Bar in 1983, 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 relevant periods referred to herein Willis was actively engaged in the practice of law in the State of North Carolina.
4. In late July 1990, Willis undertook to represent John R. Kearney (hereafter, Kearney), regarding injuries Kearney received in an automobile accident on July 21, 1990.
5. On or about June 25, 1991, Willis received a \$2,000 check from State Farm Insurance Co. in settlement of part of Kearney's claim. The \$2,000 check was made out jointly to Kearney and

Willis.

6. Willis signed both his name and Kearney's to the back of the \$2,000 check.

7. Willis did not notify Kearney that he had received the \$2,000 check and did not obtain Kearney's permission to endorse the check on Kearney's behalf.

8. Willis misappropriated the proceeds of the \$2,000 check without Kearney's knowledge or permission.

9. In July 1991, Willis falsely told Kearney that he was still awaiting receipt of the check from the insurance company.

10. Kearney learned from an insurance adjuster in August 1991 that the \$2,000 check had been delivered to Willis. Kearney also learned that the check had been negotiated and he later reported the matter to the bank on which the check was drawn.

11. Kearney ultimately received restitution from the bank upon which the \$2,000 check had been drawn.

12. Willis had not made restitution of the \$2,000 at the time of the hearing of this action.

13. In approximately March 1989, Willis undertook to represent Walter H. Lee respecting a personal injury claim.

14. On several occasions, Willis assured Lee that he was working on his case.

15. Despite Willis' assurances, Willis failed to resolve Lee's claim in a timely fashion or to assist him effectively.

16. Willis' last contact with Lee was in approximately August 1990.

17. After August 1990, Willis failed to respond to Lee's inquiries about the status of his case.

18. Willis ultimately left North Carolina without notifying Lee and without returning Lee's file to him, thereby effectively abandoning Lee's claim.

19. In July 1990, Willis' record on file with the North Carolina State Bar was a post office box in Raleigh.

20. Following July 1990, however, certified letters sent to Willis at the Raleigh post office box were returned unclaimed to the N.C. State Bar.

21. In February 1991, Willis provided the N.C. State Bar

with a post office box and a street address in Ft. Lauderdale, Florida at which he said he could be reached. Willis declined to provide the N.C. State Bar with any other information about where he would be living.

22. In late 1991, the N.C. State Bar sent certified letters to both the post office box and the street address in Florida. These letters were returned to the N.C. State Bar.

23. In November 1991, the N.C. State Bar attempted to have Willis personally served with a summons, temporary restraining order and motion for preliminary injunction through the Broward County Sheriff's Department. The Broward County Sheriff's Department was unable to locate Willis, however.

24. As of February 1992, the N.C. State Bar had no reliable information regarding Willis' whereabouts and its attempts to serve Willis with various documents by registered mail and in person had all been unsuccessful.

25. The North Carolina State Bar served Willis with the complaint in this matter by publication pursuant to N.C. Civ. Pro. Rule 4(j1). The notice of the instant disciplinary proceeding appeared in the Raleigh News & Observer Newspaper on March 2, March 9, and March 16, 1992.

26. Pursuant to Rule 4(j1), Willis had until April 13, 1992 to file answer to the State Bar's complaint.

27. Willis did not file an answer to the complaint.

28. On May 5, 1992, the N.C. State Bar filed a motion for entry of default, based upon Willis' failure to timely answer. The State Bar attached to its motion an affidavit setting out the circumstances justifying service of process by publication and an affidavit of publication, as required by Rule 4(j1) of the Rules of Civil Procedure.

29. On May 5, 1992, the Secretary of the N.C. State Bar entered default against Willis' pursuant to Section 14(F) of the Discipline & Disbarment Procedures of the N.C. State Bar and Rule 55 of the N.C. Rules of Civil Procedure.

30. On May 8, 1992, Raleigh attorney Gerald Bass advised Willis that there was a State Bar proceeding pending against Willis. Bass also advised Willis to accept service of process from the N.C. State Bar.

31. Willis did not accept service of process from the N.C. State Bar in this matter.

32. On May 11, 1992, Harry B. Warren, the Director of Investigations for the N.C. State Bar, hand-delivered a copy of the summons, complaint, motion for default, entry of default and

motion for order of discipline to Kearney, upon learning that Willis was in Raleigh and had made an appointment to see Kearney later in the day.

33. Later on May 11, 1992, Kearney met with Willis and gave Willis the pleadings which Kearney had received from Warren. Willis put the pleadings into his briefcase.

34. During the May 11 meeting, Kearney advised Willis that there would be a State Bar hearing on June 12 and that Willis should read the documents which Kearney had handed him.

35. Willis told Kearney that he had seen a copy of the notice regarding the State Bar complaint which had been published in the News & Observer Newspaper.

Based upon the foregoing findings of fact, the Disciplinary Hearing Committee makes the following:

CONCLUSIONS OF LAW

1. Willis was properly served with notice of the State Bar complaint in this matter by publication in March 1992.

2. Willis had actual notice of the fact that disciplinary charges had been filed against him and that the hearing was set for June 12 no later than May 11, 1992.

3. The Disciplinary Hearing Commission has personal and subject matter jurisdiction to proceed in this matter.

4. By misappropriating the proceeds of the \$2,000 check without his client's knowledge or permission, Willis committed a criminal act which reflects 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 and engaged in conduct involving dishonesty, fraud, deceit or misrepresentation in violation of Rule 1.2(C) of the Rules of Professional Conduct.

5. By failing to take adequate steps to handle Lee's personal injury claim between March 1989 and 1991, when he left the jurisdiction and abandoned the case, Willis neglected a legal matter entrusted to him in violation of Rule 6(B)(3) of the Rules of Professional Conduct and prejudiced a client in violation of Rule 7.2(A)(3) of the Rules of Professional Conduct.

6. By failing to communicate adequately with Lee about his case, Willis failed to respond to reasonable requests for information from a client, in violation of Rule 6(B)(1) of the Rules of Professional Conduct.

7. By effectively abandoning Lee's claim without first

notifying Lee and without returning Lee's file to him, Willis failed to take steps to avoid prejudice to his client, in violation of Rule 2.8(A)(2) of the Rules of Professional Conduct.

Signed by the Chair with the consent of all parties and Committee members.

This the 30th day of June, 1992.

Maureen Demarest Murray
Maureen Demarest Murray, Chair

NORTH CAROLINA
WAKE COUNTY

BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
92 DHC 6

THE NORTH CAROLINA STATE BAR,
Plaintiff

vs.

FRANCIS CRAIG WILLIS, ATTORNEY
Defendant

ORDER OF DISCIPLINE

This cause was heard by a Hearing Committee of the Disciplinary Hearing Commission consisting of Maureen Demarest Murray, Chair; James Burney and Fred Folger, Jr., on Friday, June 12, 1992. Based upon the evidence presented, the Committee finds the following aggravating factors:

1. The Defendant engaged in multiple acts of misconduct in violation of the Rules of Professional Conduct.
2. The Defendant has failed to make restitution of the \$2,000 he misappropriated.
3. The Defendant has failed to appear or file answer to the charges in this matter, despite the fact that he had actual notice of the State Bar proceeding.
4. The Defendant's misconduct was motivated by selfish considerations.

Based upon the Findings of Fact and Conclusions of Law the Hearing Committee enters the following:

ORDER OF DISCIPLINE

1. The Defendant, Francis Craig Willis is hereby DISBARRED.
2. The Defendant shall pay the costs of this proceeding.

Signed by the Chair with the consent of all Committee members.

This the 30th day of June, 1992.

Maureen Demarest Murray
Maureen Demarest Murray, Chair
Disciplinary Hearing Committee