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NORTH CAROLINA

WAKE COUNTY

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
00G0941

IN THE MATTER OF

Mr. T. Porterfield
Attorney At Law

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)
) REPRIMAND
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On January 18, 2001 the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by Willie L. Berry.

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.

You were retained to represent Willie L. Berry in January 1998. Mr. Berry was charged in federal court with possession of a firearm by a convicted felon. You represented Willie L. Berry in his criminal charge. You were allowed to withdraw as Mr. Berry's attorney by an order signed by Carl Horn, Chief United States Magistrate Judge, on April 2, 1998.

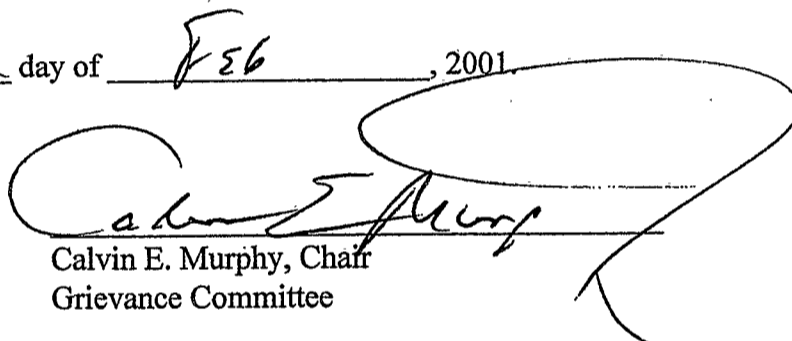
After you had withdrawn from Mr. Berry's case, you had a discussion with the Assistant United States Attorney who would prosecute Mr. Berry. According to your response to the Grievance Committee, you indicated that the Assistant United States Attorney told you that she intended to subpoena you to Mr. Berry's trial to testify in the matter. You then informed the Assistant United States Attorney that a third party had told you, while you represented Mr. Berry, that she was willing to commit perjury about the ownership of a gun found under the seat of the car that Mr. Berry operated at the time of his arrest. At the time you conveyed this information to the Assistant United States Attorney, you were not under subpoena to divulge this information.

Your conduct in this regard violated Rule 1.6(c)(1) and (2) of the Revised Rules of Professional Conduct. The comment to Rule 1.6 indicates that the confidentiality rule applies "not merely to matters communicated in confidence by the client, but also to all information relating to the representation, whatever its source".

You are hereby reprimanded by the North Carolina State Bar for 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 the 12 day of FEB, 2001.


Calvin E. Murphy, Chair
Grievance Committee

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