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FILED

NORTH CAROLINA

1978 MAY 17 AM 9 24

BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
78 DHC 4

WAKE COUNTY

B.E. JAMES, SEC.
THE N. C. STATE BAR

THE NORTH CAROLINA STATE BAR,)

Plaintiff)

vs.)

RICHARD M. DAILEY, JR.,)
Attorney,)

Defendant.)

FINDINGS OF FACT
AND
CONCLUSIONS OF LAW

This cause coming on to be heard and being heard before the undersigned hearing committee of the Disciplinary Hearing Commission of The North Carolina State Bar at a regularly scheduled hearing held on April 28, 1978, in the office of The North Carolina State Bar, 107 Fayetteville Street Mall, Raleigh, North Carolina, and The North Carolina State Bar being represented by M. Bays Shoaf, Jr., and the Defendant and his attorney, E. L. Alston, Jr., having been notified of the hearing date but not present, and said hearing committee having heard the evidence make 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.

2. The Defendant, Richard M. Dailey, Jr., is a citizen and resident of Guilford County, North Carolina and was admitted to The North Carolina State Bar in 1965 and was at all times relevant to this proceeding, an attorney at law licensed to practice law in the State of North Carolina, subject to the Rules, Regulations, Canons of Ethics and Code of Professional Responsibility of The North Carolina State Bar and the laws of the State of North Carolina, except that the Defendant was suspended from The North Carolina State Bar in October, 1977 by reason of nonpayment of dues.

3. On July 26, 1976, the Defendant entered a plea of not guilty to the offense of feloniously receiving stolen goods in violation of North Carolina General Statutes Section 14-72 (b)(c). The Defendant was found guilty of said felony on July 29, 1976 in the Superior Court of Guilford County and was sentenced to a term of imprisonment for the period of two years. The Defendant appealed the conviction to the Court of Appeals of North Carolina and on July 6, 1977 judgment was entered by the Court of Appeals of North Carolina and found no error in the record and the proceedings of the trial court. The Defendant petitioned the Supreme Court of North Carolina for discretionary review of the judgment entered by the Court of Appeals. On August 1, 1977, the North Carolina Supreme Court denied the petition for discretionary review and stay of execution of judgment.

4. At the hearing held on April 28, 1978, The North Carolina State Bar introduced into evidence the Complaint in this proceeding together with attachments. The attachments are the following:

Exhibit A, Judgment and Commitment dated July 29, 1976 in the case of State of North Carolina vs. Richard M. Dailey, Jr.;

Exhibit B, Judgment of the Court of Appeals of North Carolina dated July 26, 1977 in the case of State of North Carolina vs. Richard Maurice Dailey, Jr.;

Exhibit C, Order denying petition for discretionary review by the Supreme Court of North Carolina dated August 1, 1977 in the case of State of North Carolina vs. Richard Maurice Dailey, Jr.

The Complaint in this action together with the aforementioned exhibits are attached hereto and are hereby made a part of these findings of fact.

Based upon the foregoing findings of fact, the hearing committee concludes that the conduct of the Defendant as set forth above constitutes a violation of Chapter 84, Section 28 (b)(1) of the General Statutes of North Carolina in that

he was convicted of the crime of feloniously receiving stolen goods, a criminal offense showing professional unfitness, from which the Defendant has exhausted all appellate remedies available to him.

The hearing committee further concludes that the conduct of the Defendant as set forth above constitutes a violation of Chapter 84, Section 28 (b)(2) of the General Statutes of North Carolina in that the Defendant engaged in illegal conduct involving moral turpitude in violation of Disciplinary Rule 1-102(A)(3) of the Code of Professional Responsibility of The North Carolina State Bar.

This the 28th day of April, 1978.

Harold K. Bennett
Harold K. Bennett, Chairman

Cyrus F. Lee
Cyrus F. Lee

Kenyon B. Zahner, Jr.
Kenyon B. Zahner, Jr.

NORTH CAROLINA
WAKE COUNTY

BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR

THE NORTH CAROLINA STATE BAR,
Plaintiff

vs.

RICHARD M. DAILEY, JR.,
Attorney,
Defendant.

ORDER

The hearing committee having made findings of fact and conclusions of law and pursuant to Section 9 of Article IX, Discipline and Disbarment of Attorneys, the undersigned hearing committee of the Disciplinary Hearing Commission hereby issues the following Order.

IT IS HEREBY ORDERED that the Defendant, Richard M. Dailey, Jr., be disbarred under the provision of North Carolina General Statute 84-28 (c)(1).

IT IS FURTHER ORDERED that Richard M. Dailey, Jr. be taxed with the costs of this hearing.

This the 7th day of April, 1978.

Harold K. Bennett
Harold K. Bennett, Chairman

Cyrus F. Lee
Cyrus F. Lee

Kenyon B. Zahner, Jr.
Kenyon B. Zahner, Jr.