

FILED

STATE OF NORTH CAROLINA
COUNTY OF WAKE

1982 NOV 31 AM
BEFORE THE DISCIPLINARY HEARING COMMISSION
OF THE
B.E. JAMES, SR. NORTH CAROLINA STATE BAR
THE N. C. STATE BAR 82 DHC 8

THE NORTH CAROLINA STATE BAR,
Plaintiff

v.

ORDER

JAMES E. GRIFFIN, ATTORNEY
Defendant

This cause was heard before a Hearing Committee of the Disciplinary Hearing Commission of the North Carolina State Bar composed of John B. McMillan, Chairman, Robert W. Wolf and Mary Cecile Bridges, on Friday, November 12, 1982 in the Council chambers of the North Carolina State Bar Building, 208 Fayetteville Mall, Raleigh, North Carolina.

The plaintiff was represented by L. Thomas Lunsford, II, staff attorney for the North Carolina State Bar. The defendant was present and appeared Pro Se.

Based upon the evidence and following arguments of counsel, the Hearing Committee makes for the followings findings of fact and conclusions of law:

FINDINGS OF FACT

1. 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, James E. Griffin, was admitted to the North Carolina State Bar on September 21, 1955, and is and was at all times referred to herein, 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 of the laws of the State of North Carolina.

3. At and during all of the times hereinafter referred to, the defendant was actively engaged in the practice of law in the State of North Carolina and maintained a law office in the City of Monroe, Union County, North Carolina.

4. On March 4, 1978, Glady D. Lane of Marshville, Union County, North Carolina died testate.

5. On March 24, 1978, the executor named in the Will of Glady D. Lane, James D. Davis of Sellersville, Pennsylvania, qualified as executor of the estate of Glady D. Lane. Previous to the date of qualification, the executor had employed the defendant, James E. Griffin, to represent him in connection with the administration of the estate.

6. In December of 1978, the defendant prepared and sent to the executor for execution in Pennsylvania the 90-day inventory and the North Carolina inheritance tax return for the estate which he, the defendant, had prepared.

7. On December 28, 1978, the executor mailed back to the defendant for transmission to the appropriate offices the executed inventory and tax return along with two estate checks: check #103 dated 12/28/78 and made payable to the North Carolina Department of Revenue in the amount of \$5,443.23 to satisfy the tax liability, and check #104 dated 12/28/78 and made payable to the Clerk of Superior Court of Union County in the amount of \$128.50 to cover the Clerk's inventory fee.

8. On February 9, 1979, the defendant was paid a fee for representing the executor.

9. In August of 1979, the defendant filed with the North Carolina Department of Revenue the aforesaid tax return and check #103 both of which had been in his possession since January, 1979.

10. Shortly thereafter, check #103 was returned by the North Carolina Department of Revenue to the executor with a request for re-issuance because of stale date. The executor then directly mailed to the North Carolina Department of Revenue replacement check #124 in the amount of \$5,443.23.

11. In August 1979, the North Carolina Department of Revenue sent the defendant, as attorney for the executor, a notice informing him that the inheritance liability had been incorrectly computed, and that there was a deficiency of \$1,110.69 which included a penalty of \$302.02 for late filing and accrued interest of \$211.42. The executor's copy of this notice was also sent to the defendant. The defendant did not transmit this information to the executor.

12. On January 2, 1981, the executor received a letter from the North Carolina Department of Revenue informing him that there was an outstanding amount due of \$1,110.69 plus accrued interest of \$194.31 for a total amount due from the estate of \$1,305.00.

13. In June, 1981, the executor paid the North Carolina Department of Revenue \$1,338.31 of his personal funds to avoid further accrual of interest and threatened legal action against former estate property which had been distributed to various devisees.

14. On August 3, 1982, the complaint in this action was filed.

15. On September 7, 1982, the defendant wrote a letter to the executor transmitting his personal check in the amount of \$741.00 representing full reimbursement for interest and penalties required by the Gladys D. Lane estate and paid by the executor James E. Davis.

16. On November 9, 1982, the defendant mailed to the executor the final account for the estate.

17. During the time that the defendant was neglecting the estate, he received repeated inquiries from the executor and from officials in the office of the Clerk of Superior Court of Union County reminding him of his responsibilities in connection with this matter.

18. By his own admission, defendant deliberately chose not to fulfill his obligations to his client so as to make this matter more than a single act of neglect.

19. Defendant's conduct was a violation of DR6-101(A)(3) and is grounds for discipline because of the defendant's repeated disregard of letters, notices and other inquiries from his client and court officials over an extended period of time; defendant's conduct was also a violation of DR7-101(A)(1) and (2).

20. The defendant has been a successful attorney in Union County, North Carolina, had no intention to harm his client and had no intention to profit by his neglect of his client's affairs.

CONCLUSIONS OF LAW

1. By failing to file the 90-day inventory with the required fee and the necessary accountings in the Gladys D. Lane estate, by belatedly filing the North Carolina Inheritance Tax Return and by repeatedly failing to respond to inquiries about those matters, defendant neglected a legal matter entrusted to him in violation of Disciplinary Rule 6-101(A)(3) of the Code of Professional Responsibility of the North Carolina State Bar.

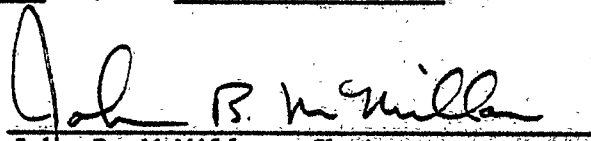
2. The defendant intentionally failed to seek the lawful objectives of his client through reasonably available means permitted by law in violation of Disciplinary Rule 7-101(A)(1) of the Code of Professional Responsibility of the North Carolina State Bar.

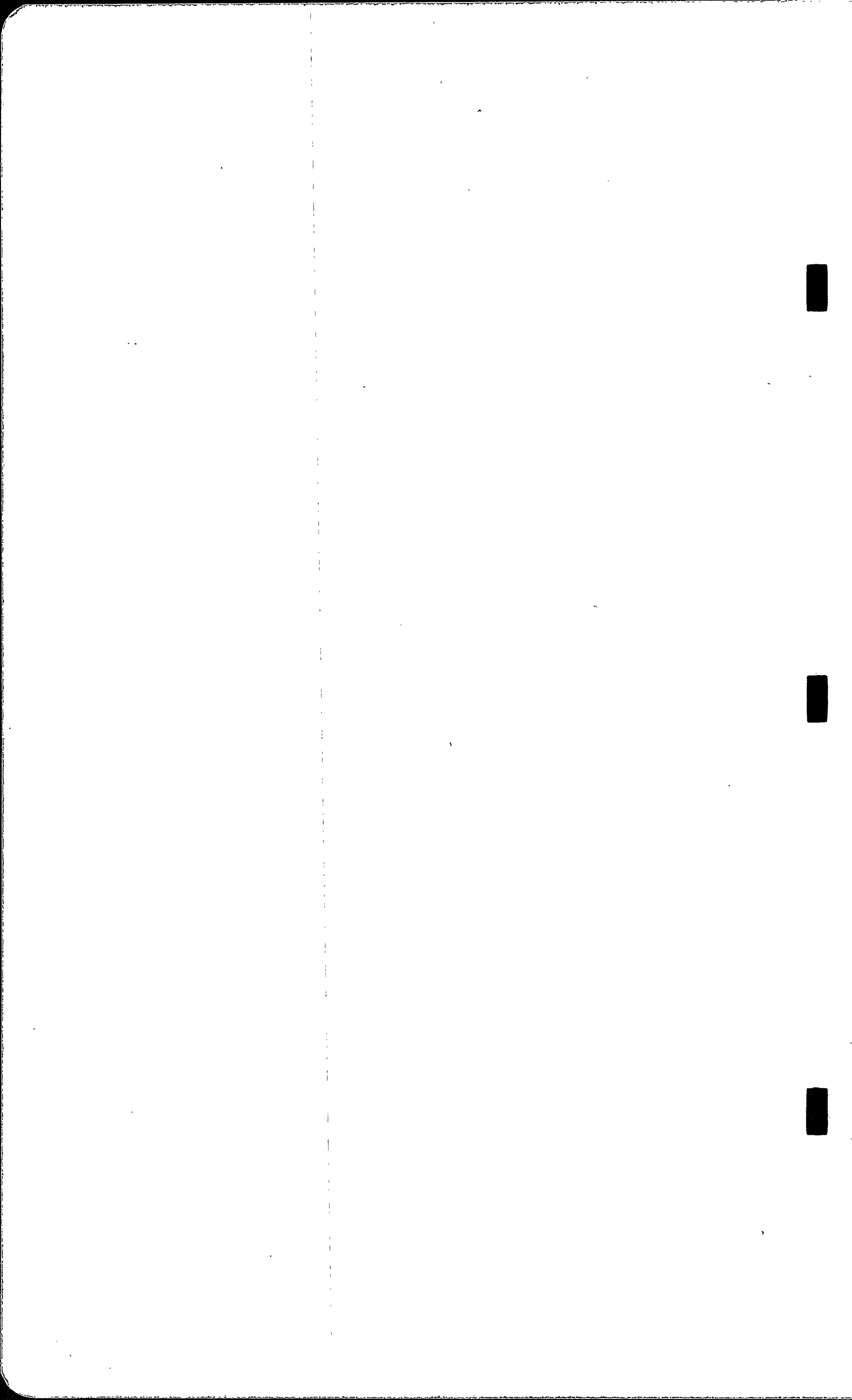
3. The defendant willfully failed to carry out a contract of employment entered into with a client for professional services in violation of Disciplinary Rule 7-101(A)(2) of the Code of Professional Responsibility of the North Carolina State Bar.

4. The defendant did not willfully prejudice or damage his client during the course of the professional relationship.

Based upon the foregoing findings of fact and conclusions of law, the Hearing Committee determines that the defendant is subject to discipline.

Signed by the undersigned Chairman with the full accord and consent of the other hearing committee members, this 30th day of November, 1982.


John B. McMillan, Chairman



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Defendant

Following the establishment of the charges of misconduct, the Hearing Committee composed of the undersigned Chairman and committee members Robert W. Wolf and Mary Cecile Bridges was reconvened, pursuant to Section 14(19) of Article IX of the Rules of Discipline and Disbarment of the North Carolina State Bar for the purpose of considering evidence relative to the discipline to be imposed; based upon that evidence the Hearing Committee makes the following findings of fact:

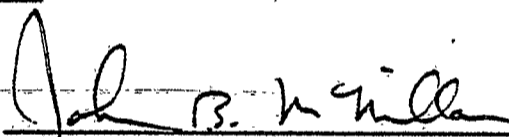
1. The defendant has no record of any previous misconduct for which he has been disciplined in this State or any other jurisdiction.
2. The defendant has repaid his client for all interest and penalties suffered by the estate as a result of the defendant's neglect.
3. The defendant has completed the final account in the estate and submitted it to the executor.
4. The primary cause of the defendant's neglect was his busy court schedule which the defendant has now modified by limiting his appearances in Criminal District Court.

5. The defendant has an excellent reputation as a competent, hard-working and trustworthy attorney who has always dealt openly, honestly and sincerely with the court and his fellow attorneys.

Based upon the foregoing findings of fact, the hearing committee finds and concludes that the discipline which best protects the public, the courts and the legal profession in this case is a private reprimand.

IT IS, THEREFORE ORDERED that the defendant James E. Griffin be, and hereby is, taxed with the costs of this proceeding and a copy of this Order is directed to be forwarded to the Chairman of the Disciplinary Hearing Commission for the preparation of a letter of reprimand.

Signed by the undersigned Chairman with the full accord and consent of the other hearing committee members this 30th day of November, 1982.



John B. McMillan, Chairman