

NORTH CAROLINA  
WAKE COUNTY

FILED  
MAR 17 AM 10:22  
J.E. JAMES, SEC.  
THE N.C. STATE BAR

BEFORE THE  
DISCIPLINARY HEARING COMMISSION  
OF THE  
NORTH CAROLINA STATE BAR  
86 DHC 7

---

THE NORTH CAROLINA STATE BAR,	)	
Plaintiff,	)	
	)	
V.	)	PUBLIC CENSURE
	)	
JAMES E. RAMSEY,	)	
Defendant.	)	

---

This public censure is delivered to you pursuant to Section 23 of Article IX of the Rules and Regulations of the North Carolina State Bar and pursuant to a Consent Order of Discipline entered in the above-captioned action by a Hearing Committee of the Disciplinary Hearing Commission of the North Carolina State Bar bearing the date of February 9, 1987, which Order incorporated Findings of Fact and Conclusions of Law agreed upon and consented to by the parties and approved by the Hearing Committee pursuant to Section 14(8) of the above-mentioned Rules and Regulations.

On or about December 7, 1981, you were appointed to represent James T. Davis in cases 81 CRS 2821-22, Person County, relative to criminal charges of armed robbery and safecracking arising from the robbery of a convenience store in Roxboro, North Carolina on June 28, 1981.

Davis was tried for the alleged offenses during the week of August 31, 1982. You represented him at trial. Following several days of trial, your motion to dismiss was granted as to the safecracking charge. Thereafter, the armed robbery charge went to the jury which returned a verdict of guilty. The presiding judge thereafter imposed the mandatory minimum sentence, imprisonment for seven years.

During the period between your employment and the day of trial, you did not discuss the case with your client in person or by telephone. Although you did engage in some communication by mail, you did not actually meet Davis until the day of trial.

By failing to personally discuss the case with your client prior to the day of his trial upon serious felony charges, you engaged in professional conduct that was prejudicial to the

administration of justice, handled a legal matter without preparation adequate under the circumstances and neglected a legal matter entrusted to you in violation of Disciplinary Rules 1-102(A)(5) and 6-101(A)(2) and (3), respectively, of the North Carolina Code of Professional Responsibility.

Your conduct in this matter was unprofessional and in violation of the North Carolina Code of Professional Responsibility. It brought discredit upon you and tended to place the Courts and the Bar in disrepute.

As an experienced trial lawyer, you should know that a lawyer who undertakes to represent an individual accused of serious crimes accepts a tremendous professional responsibility. Only by diligent and thorough effort can a criminal defense lawyer provide the sort of representation required to insure that the presumption of innocence and other important constitutional guarantees are fully observed. At a minimum, the fulfillment of this responsibility requires the lawyer to have personal communication with his client.

The reasons that personal communication is necessary between lawyer and client in serious criminal cases would be self-evident. Personal communication is necessary for the lawyer to be able to adequately explain to the client all of the client's rights. Only in the context of a personal interview can the client be made to understand the many factors which bear upon such questions as how the client should plead and whether the client should take the witness stand. The lawyer who fails to engage his client in a meaningful dialogue on these subjects jeopardizes his client's right to adequate representation. Likewise, personal communication is necessary to guide the attorney in his investigation of the case and to enable the client to assist in the preparation of the defense.

The necessity for personal communication in cases of this sort is increased when the client is relatively unsophisticated and indigent. Such persons are usually very apprehensive and are often suspicious of attorneys not of their own choosing. These feelings can only be allayed by manifestations of the lawyer's personal interest in the case. Certainly it is unreasonable to expect that a relationship which is dependent for its success upon trust can be fostered in the absence of personal communication.


Because of your good reputation as an attorney and the fact that there is no evidence that you meant your client any harm in this situation, the Hearing Committee has agreed to impose a relatively mild form of discipline in this case. By agreeing to impose public censure, you should be aware that the Hearing Committee does not in any sense condone the misconduct you have committed. Rather, it is the Hearing Committee's opinion that this public censure should be sufficient to inhibit any further

misconduct and to cure an apparent deficit in your understanding of an important principle of professional ethics. You are hereby admonished to be diligent and earnest in communicating with all clients whose causes you agree to champion.

The Disciplinary Hearing Commission is confident that this public censure will be heeded by you, will be remembered by you, and will be ultimately beneficial to you. We trust that you will never again allow yourself to depart from strict adherence to the highest standards of the legal profession.

Pursuant to Section 23 of the above-mentioned Rules and Regulations, it is ordered that a certified copy of this public censure be entered upon the judgment docket of the Superior Court of Person County and also upon the minutes of the Supreme Court of North Carolina.

This the 13<sup>th</sup> day of March, 1987.

  
James E. Ferguson, II  
Hearing Committee Chairman