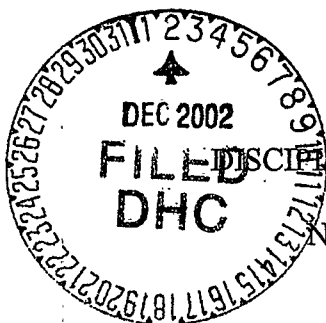


WAKE COUNTY
NORTH CAROLINA



16717

BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
02 DHC 11

THE NORTH CAROLINA STATE BAR
Plaintiff

v.

DEANNE L. MAXWELL, ATTORNEY
Defendant

)
)
) FINDINGS OF FACT,
) CONCLUSIONS OF LAW
) AND ORDER OF DISCIPLINE
)
)
)

THIS MATTER came to be heard and was heard on Friday, Nov. 22, 2002 before a Hearing Committee of the Disciplinary Hearing Commission composed of Richard T. Gammon, Chair; M. Ann Reed and Lorraine Stephens. Carolin Bakewell appeared on behalf of the North Carolina State Bar. The Defendant, Deanne L. Maxwell, did not appear and was not represented by counsel. Based upon the pleadings in the file and the evidence presented at the hearing, the Hearing Committee hereby enters 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, Deanne L. Maxwell (Maxwell), was admitted to the North Carolina State Bar in August 1989, 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. Prior to approximately 1998, Maxwell was engaged in the practice of law in Onslow County. Thereafter, she moved to Watauga County and, as of the date of the hearing herein, was a resident of Knoxville, Tenn.

4. Maxwell was personally served with the State Bar's summons and complaint on Sept. 11, 2002. Pursuant to the State Bar's rules, her answer was therefore due no later than Oct. 2, 2002.

5. Maxwell failed to file an answer or other responsive pleadings.

6. The Secretary of the N.C. State Bar entered Maxwell's default on Nov. 1, 2002.

7. Maxwell was properly notified of the time and place of the disciplinary hearing herein.

8. Prior to April 1997, Maxwell undertook to represent Bobby L. Hucks (Hucks) and Alex Spruill (Spruill) regarding a civil action captioned Monk v. Hucks that had been filed against them in Onslow County Superior Court by Rufus and Estella Monk (the Monks).

9. On or about Nov. 13, 1997, Maxwell filed an answer on behalf of Hucks and Spruill.

10. On or about May 29, 1998, Phil Toelkes (Toelkes), the Trial Court Administrator for Onslow County, notified Maxwell that a calendaring conference would be held on June 29, 1998 to set a trial date for Monk v. Hucks.

11. Maxwell did not respond to Toelkes, nor did she participate in the June 29, 1998 calendaring conference.

12. On Aug. 28, 1998, a second pretrial conference was held regarding Monk v. Hucks.

13. Maxwell failed to attend the Aug. 28, 1998 pretrial conference despite the fact that she was duly notified of the conference.

14. On or about Aug. 31, 1998, Toelkes mailed written notice to Maxwell that Monk v. Hucks had been set for trial on Oct. 12, 1998.

15. Maxwell did not appear for trial regarding Monk v. Hucks, nor did she submit a proper request for a continuance or, alternatively, a motion to withdraw as counsel for the defendants.

16. At the hearing on Oct. 12, 1998, a judgment in the amount of \$49,000 was entered against Hucks and Spruill.

17. Maxwell failed to communicate adequately with Hucks or Spruill after April 1998, failed to notify them of the June 29, and Aug. 28 pretrial

conferences and the Oct. 12, 1998 trial date and failed to notify them that judgment had been entered against them.

18. In September, 2001, Hucks filed a complaint against Maxwell with the North Carolina State Bar.

19. On April 9, 2002, Maxwell was personally served with the State Bar's substance of grievance and letter of notice regarding Hucks' grievance by the Watauga County Sheriff's Department.

20. Maxwell did not respond to the letter of notice and substance of grievance.

21. On May 3, 2002, counsel for the North Carolina State Bar wrote to Maxwell, reminding her that she had failed to respond to Hucks' grievance.

22. Maxwell did not respond to the State Bar's May 3, 2002 follow up letter.

Based on the foregoing Findings of Fact, the Hearing Committee hereby enters the following

CONCLUSIONS OF LAW

1. The Disciplinary Hearing Commission has jurisdiction over this cause and over the person of the defendant, Deanne L. Maxwell.

2. By failing to communicate with her clients after April 1998, and by failing to notify them of the pretrial conferences, the Oct. 12, 1998 trial and entry of judgment against them, Maxwell failed to communicate with clients in violation of Rule 1.4.

3. By failing to appear at the pretrial conferences and the trial of the case of Monk v. Hucks, or, alternatively, seeking to withdraw properly, Maxwell neglected a client matter in violation of Revised Rule 1.3.

4. By failing to respond to the State Bar's letter of notice and its May 3, 2002 follow up letter, Maxwell failed to answer a request for information from a disciplinary authority in violation of Rule 8.1(b).

Based on the evidence presented by the State Bar, the hearing committee also enters the following:

ADDITIONAL FINDINGS OF FACT RELEVANT TO DISCIPLINE

1. Maxwell's violations of the Revised Rules of Professional Conduct are mitigated by the fact that she has no prior discipline.
2. Maxwell's misconduct is aggravated by the following factors:
 - a. Significant financial harm to her clients;
 - b. Multiple violations of the Revised Rules of Professional Conduct.
 - c. Intentional failure to comply with the rules and orders of a disciplinary agency.
3. The aggravating factors outweigh the mitigating factors.

Based upon the foregoing Findings of Fact and Conclusions of Law, the hearing Committee enters the following

ORDER OF DISCIPLINE

1. The law license of the Defendant, Deanne L. Maxwell, is hereby suspended for three years, effective 30 days from service of the order upon Maxwell.
2. Prior to seeking reinstatement of her law license, Maxwell shall comply with the following conditions:
 - a. Provide the Secretary of the North Carolina State Bar with a written opinion from a psychiatrist approved by the Secretary, stating that Maxwell does not suffer from any physical or mental condition that would impair her judgment, competence or performance as an attorney.
 - b. Provide a written waiver permitting the Counsel and her staff to communicate with her evaluating psychiatrist regarding the evaluation and results thereof.
 - c. Provide written evidence that she has made restitution to Bobby Hucks and Alex Spruill in the amount of \$49,000.
 - d. Pay all back dues, late fees and penalties owed to the North Carolina State Bar.

e. Provide written proof that she has completed 12 hours of continuing legal education for each of the three years of active suspension of her law license. Of the 12 hours required each year, Maxwell shall complete at least two hours of courses on the subject of ethics.

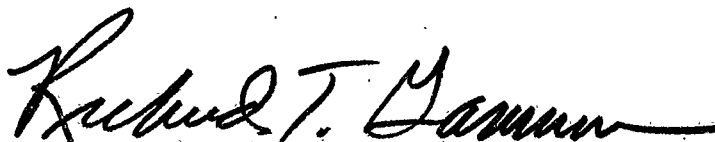
f. Demonstrate that she has not violated any provisions of state or federal law or of the Revised Rules of Professional Conduct during the suspension of her law license.

3. Maxwell shall pay the costs of this proceeding within 30 days of service on her of the written statement of the costs by the Secretary of the N.C. State Bar.

4. Maxwell shall comply with all of the wind down provisions of Rule .0124 of the State Bar Discipline & Disability Procedures.

Signed by the Chair of the Hearing Committee with the consent of the other hearing committee members.

This the 2nd day of December 2002.



Richard T. Gammon, Chair
Disciplinary Hearing Committee