

NORTH CAROLINA

WAKE COUNTY

5237

BEFORE THE  
DISCIPLINARY HEARING COMMISSION  
OF THE  
NORTH CAROLINA STATE BAR  
91 DHC 24

THE NORTH CAROLINA STATE BAR  
Plaintiff

v.

MALCOLM GRANDY, ATTORNEY  
Defendant

CONSENT ORDER OF DISCIPLINE

This matter, coming before the undersigned Hearing Committee of the Disciplinary Hearing Commission pursuant to section 14(H) of Article IX of the Discipline & Disbarment Procedures of the North Carolina State Bar; and it appearing that both parties have agreed to waive a formal hearing in this matter; and it further appearing that both parties stipulate and agree to the following Findings of Fact and Conclusions of Law recited in this Consent Order and to the discipline imposed, the Hearing Committee therefore 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 on 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, Malcolm Grandy, (hereafter, Grandy) was admitted to the North Carolina State Bar in 1961, 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. During all of the periods referred to herein, Grandy was actively engaged in the practice of law in the State of North Carolina and maintained a law office in the City of Raleigh, Wake County, North Carolina.

4. Larry A. March was indicted on charges of rape and murder of Karen Winston on or about April 10, 1989.

6. March was indicted on charges of first degree rape of Maria Jones on or about July 3, 1989.

7. E. Richard Jones and Joe Cheshire were appointed by the court to represent March respecting the Winston rape and murder

charges.

8. George Currin was appointed by the court to represent March respecting the Jones rape charge.

9. In May 1989, Margaret L. March (hereafter, Ms. March) hired Grandy to assist in the representation of March, who is Ms. March's son, respecting the Winston rape and murder charges, with primary concern over the death penalty.

10. After March was indicted respecting the Jones rape charge, Ms. March also hired Grandy to assist in that matter as well.

11. Ms. March paid Grandy an advance fee of \$3,500 for his services regarding the Jones and Winston charges.

12. Grandy undertook to investigate the charges against March, interview various witnesses, perform any necessary research, evaluate the state's case and communicate with Ms. March.

13. Grandy assured Ms. March on two or three occasions that he was working on her son's case.

14. Grandy never visited March or communicated with him about his cases.

15. In November 1989, March pled guilty to second degree murder in the Winston matter and second degree rape in the Jones case. The rape charges in the Winston matter were dismissed as part of the plea agreement.

16. Grandy did not assist the appointed attorneys in negotiating the plea, nor did he provide them with any information or research regarding the state's case against March.

17. Grandy did not appear in court on March's behalf.

18. Following entry of the guilty pleas, Ms. March asked Grandy to account for the work he did for her son and to return the unearned portion of the \$3,500 fee.

19. Grandy did not respond to Ms. March's requests for an accounting and a refund of the unearned portion of the \$3,500 advance fee.

20. Grandy either did not perform or does not have records to support that he performed sufficient legal services to justify retention of the entire \$3,500 fee.

21. Shobha W. Chitnis (hereafter, Ms. Chitnis), retained Grandy in April 1990 regarding a traffic ticket she had received in Cumberland County on or about April 20, 1990. She paid him \$200 toward a total fee of \$400.

22. A hearing on Ms. Chitnis' ticket was set for July 24, 1990 in Cumberland County.

23. Although Grandy was aware of the court date, he failed to

appear in court on Ms. Chitnis' behalf on July 24, 1990.

24. On or about Aug. 31, 1990, Ms. Chitnis was notified that her driving privileges would be suspended by the N.C. Department of Motor Vehicles as of Oct. 27, 1990, because neither she nor Grandy had appeared in court in Cumberland County on July 24, 1990.

25. Ms. Chitnis notified Grandy of the Department of Motor Vehicles letter shortly after Aug. 31, 1990.

26. Grandy falsely told Ms. Chitnis that her traffic ticket matter had been "taken care of" and suggested that she had received the letter from the Department of Motor Vehicles as the result of a clerical error.

27. Grandy did not take effective action to assist Ms. Chitnis regarding the traffic ticket or the letter she had received from the Department of Motor Vehicles.

28. Ultimately, Ms. Chitnis traveled to Cumberland County and appeared in court on Oct. 11, 1990 on her own behalf regarding the traffic ticket.

29. Grandy has failed to refund any portion of the \$200 fee paid to him by Ms. Chitnis despite her request for a refund.

30. In December, 1990, Grandy undertook to represent Janice O. Burgess respecting a traffic ticket Burgess had received in Wake County.

31. Burgess paid Grandy \$150 for his services.

32. The hearing on Burgess' traffic ticket was set for Jan. 14, 1991 in Wake County District Court.

33. Grandy failed to appear in court on Burgess' behalf on Jan. 14, 1991.

34. In March, 1991, Burgess was notified by the Department of Motor Vehicles (DMV) that her driver's license privileges would be revoked on May 5, 1991, unless she paid the court costs and fine respecting the traffic ticket.

35. Burgess promptly notified Grandy of the DMV letter. Grandy assured Burgess that he would "take care of" the problem.

36. Despite these assurances, Grandy failed to take effective action to pay the fine and costs for Burgess or to otherwise prevent the revocation of Burgess' driver's license.

37. Grandy did not notify Burgess that he had not resolved the problem with DMV prior to May 5, 1991.

38. On or about June 11, 1991, Burgess learned that the DMV had revoked her driver's license.

39. On or about June 13, 1991, Burgess paid the fine and costs for the traffic ticket. Grandy later refunded the fee paid by Burgess and the costs she incurred.

40. In a letter dated Aug. 13, 1991, Grandy falsely told Burgess that the court personnel had told him that her traffic ticket had been dismissed and that the court personnel mistakenly had failed to note the dismissal in their records.

Based upon the consent of the parties and the foregoing Findings of Fact, the Committee makes the following:

#### Conclusions of Law

1. By failing to communicate adequately with Larry March, and Shobha Chitnis about their cases, Grandy violated Rule 6(B)(1) of the Rules of Professional Conduct.
2. By failing to respond adequately to Ms. March's requests for an accounting, Grandy violated Rule 10.2(D) of the Rules of Professional Conduct.
3. By failing to refund the unearned portion of the \$3,500 fee paid him by Ms. March and by failing to return the \$200 fee he collected from Ms. Chitnis, Grandy charged or collected an excessive fee, failed to return the unearned portion of a fee, in violation of Rule 2.8(A) of the Rules of Professional Conduct.
4. By falsely telling Ms. Chitnis that the Department of Motor Vehicles letter was the result of a clerical error, that her traffic ticket "had been taken care of" and by failing to disclose that he had not appeared in court on her behalf on July 24, 1990, Grandy engaged in conduct involving misrepresentation, in violation of Rule 1.2(C).
5. By failing to appear in court on Ms. Chitnis' behalf and by failing to take any steps to assist her regarding the threatened suspension of her license by the Department of Motor Vehicles, Grandy neglected a legal matter in violation of Rule 6(B)(3) and prejudiced a client in violation of Rule 7.1(A)(3).
6. By telling Ms. Burgess that her ticket had been dismissed and that the court personnel had mistakenly failed to correct their records, Grandy engaged in conduct involving misrepresentation, in violation of Rule 1.2(C).
7. By failing to appear in court on Ms. Burgess' behalf and by further failing to take effective action to assist her regarding the threatened suspension of her license by the Department of Motor Vehicles Grandy neglected a legal matter, in violation of Rule 6(B)(3) and prejudiced a client in violation of Rule 7.1(A)(3).

Based upon the consent of the parties and the foregoing Findings of Fact and Conclusions of Law, the Committee hereby enters the following:

#### ORDER OF DISCIPLINE

1. The Defendant, Malcolm Grandy, is hereby suspended from the practice of law for six months beginning July 1, 1992.

2. The Defendant shall repay \$3,500 to Margaret March within one year of the effective date of this order.

3. The Defendant shall repay \$200 to Shobha Chitnis within one year of the effective date of this order.

4. The Defendant shall pay the costs herein.

This the 9th day of April, 1992.

Seen and Consented To:

James B. Maxwell

James B. Maxwell  
Attorney for Defendant

Malcolm Grandy

Malcolm Grandy, Defendant

Carolyn Bakewell

Carolyn Bakewell  
Attorney for Plaintiff

Signed by the undersigned Chairman with the full knowledge and consent of the other members of the Hearing Committee, this the 9th day of April, 1992.

W. Harold Mitchell

W. Harold Mitchell, Chairman  
Hearing Committee of the  
Disciplinary Hearing Commission