

23606

NORTH CAROLINA

WAKE COUNTY

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
05G0503 & 05G0577

IN THE MATTER OF

Paul C. Pooley,
Attorney At Law

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)
) REPRIMAND
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On October 20, 2005 the Grievance Committee of the North Carolina State Bar met and considered the grievances filed against you by the North Carolina State Bar and V. B.

Pursuant to Section .0113(a) of the Discipline and Disability Rules of the North Carolina State Bar, the Grievance Committee conducted a preliminary hearing. After considering the information available to it, including your response to the letter of notice, the Grievance Committee found probable cause. Probable cause is defined in the rules as "reasonable cause to believe that a member of the North Carolina State Bar is guilty of misconduct justifying disciplinary action."

The rules provide that after a finding of probable cause, the Grievance Committee may determine that the filing of a complaint and a hearing before the Disciplinary Hearing Commission are not required, and the Grievance Committee may issue various levels of discipline depending upon the misconduct, the actual or potential injury caused, and any aggravating or mitigating factors. The Grievance Committee may issue an admonition, a reprimand, or a censure to the respondent attorney.

A reprimand is a written form of discipline more serious than an admonition issued in cases in which an attorney has violated one or more provisions of the Rules of Professional Conduct and has caused harm or potential harm to a client, the administration of justice, the profession, or a member of the public, but the misconduct does not require a censure.

The Grievance Committee was of the opinion that a censure is not required in this case and issues this reprimand to you. As chairman of the Grievance Committee of the North Carolina State Bar, it is now my duty to issue this reprimand, and I am certain that you will understand fully the spirit in which this duty is performed.

In 1997 or 1998 you were appointed to handle a direct appeal from a criminal conviction for John R. After an exchange of letters and negotiations, it became apparent to you that your client really wished to file a motion for appropriate relief rather than an appeal, primarily because he wished to raise an ineffective assistance of counsel claim. It is undisputed, however, that you

took no effective action to assist your client for a period of at least three years. Ultimately, in May 2005, you withdrew from the case. Although you were not required to file a motion for appropriate relief for John R., the Committee found that your failure to inform him that he needed new counsel to proceed with the motion and your failure to timely withdraw constituted neglect in violation of Rule 1.3.

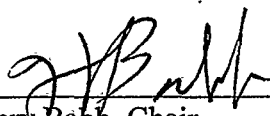
In March 2004, you were appointed to file an appeal for Vernon B. from his criminal conviction. Although you served the state with a proposed record on appeal on a timely basis, you failed to file the settled record for more than a year. In May 2005, you withdrew from the case and new counsel was appointed. Your conduct in failing to perfect the appeal for your client violated Rule 1.3.

The Committee also found that you failed to file prompt responses to the State Bar to grievances relating to your handling of the appeals for John R. and Vernon B. Your conduct in this regard violated Rule 8.1.

You are hereby reprimanded by the North Carolina State Bar for your professional misconduct. The Grievance Committee trusts that you will heed this reprimand, that it will be remembered by you, that it will be beneficial to you, and that you will never again allow yourself to depart from adherence to the high ethical standards of the legal profession.

In accordance with the policy adopted October 15, 1981 by the Council of the North Carolina State Bar regarding the taxing of the administrative and investigative costs to any attorney issued a reprimand by the Grievance Committee, the costs of this action in the amount of \$50.00 are hereby taxed to you.

Done and ordered, this the 8 day of Nov., 2005



Henry Babb, Chair
Grievance Committee

HB/lr