

STATE OF NORTH CAROLINA
COUNTY OF WAKE

DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
80 DEC 6

THE NORTH CAROLINA STATE BAR,
Plaintiff

VS.

JAMES K. WALDROUP, Attorney,
Defendant.

FINDINGS OF FACT
and
CONCLUSIONS OF LAW

THIS CAUSE, coming on to be heard and being heard before the undersigned Trial Committee of the Disciplinary Hearing Commission of the North Carolina State Bar on Friday, August 22, 1980, in the County Commissioner's Hearing Room in the Wake County Courthouse, Fayetteville Street Mall, Raleigh, North Carolina, at 10:00 a.m., and there being present for the Plaintiff, the North Carolina State Bar, Harold D. Coley, Jr., Counsel, and the Defendant having failed to appear either in person or by counsel, and the Hearing Committee having heard the evidence, make the following:

FINDINGS OF FACT

1. The Plaintiff, the North Carolina State Bar, is a body duly organized under the laws of the State of North Carolina; is the proper party to bring this action under the authority granted it under 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 K. Waldroup, was admitted to the North Carolina State Bar in September 1975, and at all times referred to was an attorney at law licensed to practice law in the State of North Carolina, and thereby subject to the rules and regulations and canons and ethics of the North Carolina State Bar and the laws of the State of North Carolina.
3. At the time referred to in the complaint, the Defendant was actively engaged in the practice of law in North Carolina and maintained an office for the practice of law in the Town of Robbinsville, Graham County, North Carolina.
4. On November 1, 1978, the Defendant contacted Dr. Craig A. Iverson of the Smoky Mountain Mental Health Center on an emergency basis, seeking treat-

ment for an emotional condition. At the time, according to the testimony of Dr. Iverson, which the Committee finds as a fact, the Defendant was suffering from an anxiety disturbance and depression, and such condition had existed for approximately one year prior to November 1, 1978 and the condition was diagnosed at the time as an adjustment reaction to job stress.

5. Again, on November 8, 1978, Dr. Iverson was consulted on an emergency basis by the Defendant's wife, at which time the Defendant was described as a moderately disturbed individual, again suffering from an adjustment reaction to job stress resulting from the pressures of the practice of law.

6. The Defendant, at that time, had asked his wife to assist him in closing his law practice. Such assistance by a third party is consistent with the emotional condition of the Defendant and constituted an attempt by the Defendant to avoid the source of the anxiety from which he was suffering.

7. In December 1978, the Defendant became employed in construction work and remains employed in such activity to the time of this hearing. During the period of time from November 1977 until the date of this hearing, the Defendant is suffering from disability of an emotional nature described as an adjustment reaction to job stress, which prevents him from engaging in the active practice of law.

8. At the time of the hearing, the Defendant was suffering from a disability which makes it impossible for him to defend adequately, and qualified medical experts have examined the Defendant and expressed the opinion that at the present time the Defendant is unable to practice law or adequately respond in matters of defense on his own behalf in connection with these proceedings.

9. The Defendant did not appear at the proceeding in person. The Defendant made several telephone calls to Counsel for the State Bar and to the Chairman of the Hearing Committee. Substance of the telephone conversations to the Chairman of the Hearing Committee have been read into the record in this proceeding.

10. The Defendant expressed a desire to be put on inactive status and indicated to the Chairman of the Committee by telephone, calling from Kentucky, that he is simply unable to get to the proceedings, but that he did not desire to practice law and requested that he be placed on the disabled list or the inactive list.

11. Every reasonable attempt was made by the State Bar to insure the presence of the Defendant and his Counsel at the hearing. Adequate notice of the hearing was given to the Defendant and his Counsel.

12. The events described in the complaint giving rise to the charges against the Defendant occurred during the Spring, Summer and Fall of 1977.

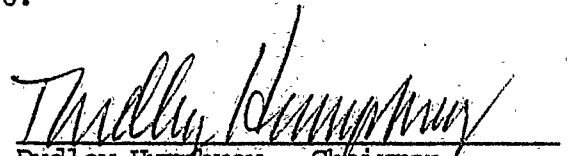
13. The foregoing Findings of Fact are consistent with the relief requested by the Defendant, and do not prejudice the rights of the Defendant. The Defendant, at such time as he desires, may, upon appropriate motion, seek to reopen these proceedings and proceed as described in the rules. In the interim, the Defendant shall be transferred to inactive status as hereinabove ordered; that the period of such transfer shall be for an indefinite term, consistent with the rights of the Defendant to reopen these proceedings upon motion at a later date.

BASED on the foregoing Findings of Fact, the Committee makes the following:

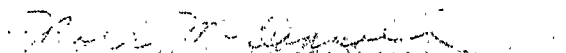
CONCLUSIONS OF LAW

BASED upon the foregoing Findings of Fact, the Committee concludes as a matter of law that the Defendant suffers from a disability which makes it impossible for him to defend adequately the charges brought against him in this proceeding.

This the 21 day of October, 1980.


Dudley Humphrey, Chairman


Garrett D. Bailey


Nona McDonold

STATE OF NORTH CAROLINA 10:0
COUNTY OF WAKE 0:5

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BEFORE THE
DISCIPLINARY HEARING COMMISSION
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THE NORTH CAROLINA STATE BAR,
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ORDER

BASED upon the Findings of Fact and Conclusions of Law previously entered in this cause, it is hereby ordered that the Defendant be and he is hereby transferred to inactive status and the Secretary of the State Bar is directed to cause the records of the State Bar to so indicate.

The proceedings in this cause with respect to the disciplinary action of the North Carolina State Bar are hereby held in abeyance, subject to the motion of the Defendant upon proper showing that the disability from which he suffers has been removed, to revive these proceedings, and thereby remove the disability.

The North Carolina State Bar is hereby directed to preserve such testimony as it may wish to offer at the hearing, if it is revived by the Defendant; and if such testimony is to be in the form of deposition, due notice should be given to Mr. Leonard Lloyd, attorney of record for the Defendant, so that he may have the opportunity to cross-examine such witnesses.

Under the provisions of the rules and regulations of the North Carolina State Bar, Article IX, Section 25, Paragraph B, the Defendant may apply for reinstatement or transfer from the inactive status at such intervals as he may elect, not to exceed more frequently than every six months.

Counsel for the North Carolina State Bar is hereby directed to make an inquiry as to the status of all matters which the Defendant is handling and to file a report of its inquiry with the Office of the Secretary on or about October 1, 1980.

The Defendant is hereby taxed with this proceeding as provided by the rules.

This the 21 day of October, 1980.

Budley Humphrey
Budley Humphrey, Chairman

Garrett D. Bailey
Garrett D. Bailey

Nona McDonald
Nona McDonald