

NORTH CAROLINA

WAKE COUNTY

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
97G1061(IV)R

IN THE MATTER OF

CHARLOTTE A. WADE,
ATTORNEY AT LAW

)
)
)
)
)

CENSURE

On April 16, 1998, the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by TWC.

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.

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

The Grievance Committee believes that a hearing before the Disciplinary Hearing Commission is not required in this case and issues this Censure to you. As chairman of the Grievance Committee of the North Carolina State Bar, it is now my duty to issue this Censure. I am certain that you will understand fully the spirit in which this duty is performed.

In April 1997, you represented the Buncombe County Department of Social Services ("DSS"). Your client, DSS, put a local hospital on notice that it would be taking non-secure custody of a newborn infant. The mother and father of the newborn found out about DSS' plans and hired attorneys to represent them. On April 1, 1997, the attorneys for the parents of the newborn filed a complaint in civil court and obtained an ex-parte temporary restraining order

("TRO"), restraining DSS from taking custody of the newborn until the parents' attorneys were given notice and an opportunity for a hearing on any secure or non-secure custody order.

On April 3, 1998, you filed a motion asking the Court to withdraw the TRO and dismiss the complaint filed by the newborn's parents. The Honorable District Court Judge Rebecca B. Knight presided over a hearing on the matter. At the hearing, you represented to Judge Knight that no petition for non-secure custody had been filed. The court dissolved the TRO but instructed you, as an officer of the court, to contact the attorneys for the parents if, in the future, DSS sought a non-secure custody order for the newborn infant and to tell the parents attorneys when and where DSS would be asking the Court for such an order.

By your own admission, you left Judge Knight's courtroom late in the afternoon on April 3 and immediately proceeded, with an already-prepared petition in hand, to attempt to get a non-secure custody order signed without notifying the parents' attorneys. You got the Honorable District Court Judge Gary S. Cash to sign a non-secure custody order for the newborn. In presenting Judge Cash with the petition and order for non-secure custody, you did not inform Judge Cash of any of the prior proceedings before Judge Knight or her order to you. You also did not contact either of the parents' attorneys before seeking to have the order entered, in direct violation of the Judge Knight's court order. When Judge Knight informed Judge Cash of the prior proceedings that you failed to inform him of before signing the non-secure custody order, he struck the order.

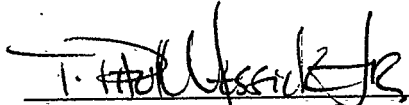
Your above-described conduct violated several of the Rules of Professional Responsibility. First, by representing to Judge Knight that no petition had been filed and then immediately seeking and getting an order of non-secure signed by Judge Cash, you engaged in conduct involving dishonesty, fraud, deceit or misrepresentation, in violation of Rule 1.2(c). Second, by failing to inform Judge Cash of the prior proceedings and Judge Knight's order to you, you concealed or knowingly failed to disclose something which you were required by law to reveal, in violation of Rule 7.2(a)(3). Third, by failing to notify the parents' attorneys about your intention to seek a non-secure custody order in direct violation of Judge Knight's order, you disregarded a ruling of a tribunal, in violation on Rule 7.6(a). All three of your above described actions constituted conduct prejudicial to the administration of justice, in violation of Rule 1.2(d).

In deciding to issue a Censure, the Committee considered factors aggravating and mitigating your violations. In aggravation, the Committee considered the multiple offenses you committed, your refusal to acknowledge the wrongful nature of your conduct in your response, and your substantial experience in the practice of law. In mitigation, the considered the absence of any prior disciplinary record against you.

You are hereby censured by the North Carolina State Bar for your violations of the Rules of Professional Conduct. The Grievance Committee trusts that you will ponder this Censure, recognize the error that you have made, and that you will never again allow yourself to depart from adherence to the high ethical standards of the legal profession. This Censure should serve as a strong reminder and inducement for you to weigh carefully in the future your responsibility to the public, your clients, your fellow attorneys and the courts, to the end that you demean yourself as a respected member of the legal profession whose conduct may be relied upon without question.

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 Censure by the Grievance Committee, the costs of this action in the amount of \$50.00 are hereby taxed to you.

Done and ordered, this 2nd day of MAY, 1998.



T. Paul Messick, Jr.
Chair, Grievance Committee