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STATE OF NORTH CAROLINA
COUNTY OF WAKE

1977 OCT 14 PM 2:49
BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
77 DHC 12
B.E. JAMES, SEC
THE N.C. STATE BAR

THE NORTH CAROLINA STATE BAR,
Plaintiff,

vs.

CHARLES E. VICKERY, Attorney,
Defendant.

FINDINGS OF FACT
AND
CONCLUSIONS OF LAW

This cause was heard before the undersigned Hearing Committee of the Disciplinary Hearing Commission of The North Carolina State Bar on October 14, 1977, in the Office of The North Carolina State Bar, 107 Fayetteville Street, Raleigh, North Carolina. The North Carolina State Bar was represented by C. Christopher Bean, Staff Attorney. The Defendant appeared pro se. The Hearing Committee, after hearing evidence and argument, as appears of record, makes the following Findings of Fact:

(1) 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 in Chapter 84, General Statutes of North Carolina.

(2) The Defendant, Charles E. Vickery, is a citizen and resident of Orange County, North Carolina, and was admitted to The North Carolina State Bar in October 1970, and is and was at all times relevant to this proceeding, an Attorney at Law, licensed to practice in the State of North Carolina and is subject to the Rules, Regulations, Canons of Ethics, and Code of Professional Responsibility of The North Carolina State Bar and the laws of the State of North Carolina.

(3) A duly verified Complaint, setting forth the charges against the Defendant, was filed in the Office of The North Carolina State Bar on August 8, 1977. Notice thereof was

given to the Defendant by personal service upon the Defendant of a copy of the Complaint, Notice and Summons by Harold D. Coley, Jr., Counsel, The North Carolina State Bar on August 12, 1977.

(4) A duly verified Answer to the Complaint was filed in the Office of The North Carolina State Bar by the Defendant on September 19, 1977.

(5) On May 30, 1976 Leonard Thell Jernigan was arrested and charged with driving under the influence of intoxicating liquor in Dare County, North Carolina. The trial date was set at that time for July 2, 1976 in the District Court of Dare County.

(6) On or about June 7, 1976 Leonard Thell Jernigan requested the Defendant to represent him on the aforementioned charges, and the Defendant agreed to assist Mr. Jernigan with the matter.

(7) On June 11, 1976 the Defendant contacted a Dare County attorney, Herbert L. Thomas, who agreed to represent Mr Jernigan in the Dare County District Court.

(8) On June 22, 1976, Mr. Thomas wrote to the Defendant advising him that the case had been continued until July 30, 1976 and requested the Defendant to forward a Power of Attorney and a proposed limited driving privilege by July 9, 1976, so that Mr. Jernigan could avoid a personal appearance in Dare County District Court. No response was made by the Defendant to Mr. Thomas' request.

(9) On July 16, 1976, Mr. Thomas again wrote to the Defendant stating that since the Power of Attorney and proposed driving privilege had not been received by July 9, Mr. Jernigan would have to make a personal appearance under less favorable circumstances and requested the Defendant to contact him upon receipt of the letter.

(10) No response was made to Mr. Thomas' letter of July 16, 1976, and Mr. Jernigan was not notified by the Defendant to be in court on July 30, 1976. On July 30, 1976,

Mr. Jernigan's \$200.00 bond was called, an order of arrest was issued, and Mr. Thomas was allowed to withdraw as attorney of record. Mr. Jernigan was subsequently arrested for failing to appear and was required to post a \$400.00 unsecured bond. A new trial date was set for October 22, 1976.

(11) Several days prior to October 22, 1976, Mr. Jernigan was told by the Defendant that he was going to get the case continued and would inform Mr. Jernigan of the new court date.

(12) On the morning of October 22, 1976, after court had opened, the Defendant called the Assistant District Attorney in Manteo, requesting a continuance. In accordance with the continuance rules of the First Judicial District, Judge John T. Chaffin refused to grant a further continuance in Mr. Jernigan's case.

(13) On the Defendant's advice, Mr. Jernigan appeared in the District Court of Dare County on November 5, 1976 where Thomas White, a Dare County attorney, was retained and pleaded Mr. Jernigan guilty of driving under the influence of intoxicating liquor.

(14) When Mr. Jernigan returned to Chapel Hill on the night of November 5, 1976, he was arrested for failing to appear in Dare County District Court on October 22, 1976 and was required to post a secured bond of \$1,000.00. A court date of November 19, 1976 was set in Dare County District Court for Mr. Jernigan to appear to answer the charges of failing to appear pursuant to a release order.

(15) Court was cancelled in Dare County for November 19, 1976 and Mr. Jernigan's case was continued until December 10, 1976. A subpoena was issued and served on the Defendant on December 10, 1976 to appear as a witness for Mr. Jernigan, but the Defendant failed to appear. Herbert Thomas was also subpoenaed as a witness for that date by Mr. Jernigan. Mr. Jernigan and Herbert Thomas were present in court, and

Judge John T. Chaffin issued a Show Cause Order for Contempt for Failure to Appear to a Subpoena to the Defendant.

(16) The Show Cause Order was served on the Defendant ordering him to appear in the District Court of Dare County on January 14, 1977. On that date Mr. Jernigan was again in Dare County District Court, but the Defendant did not make an appearance. Judge Chaffin had agreed to a continuance on January 13, 1977 at the request of the Defendant, on the condition that Mr. Jernigan and his son be notified by the Defendant. The Jernigans were never notified.

(17) The charges of failing to appear pursuant to a release order against Mr. Jernigan were dismissed by the Assistant District Attorney of Dare County on January 14, 1977 due to the presentation of a letter from the Defendant acknowledging that Mr. Jernigan's failure to appear had been due to the mistake of the Defendant and due to Mr. Jernigan's perserverance in trying to rectify the matter.

(18) On February 11, 1977 the Defendant appeared before Judge John T. Chaffin in the District Court of Dare County and apologized for his failure to appear or to notify the Court of the reason for his absence on December 10, 1976. The Court then ordered that the Defendant pay over to Leonard T. Jernigan the sum of \$80.00, pursuant to the General Statutes of North Carolina, Chapter 8, Article 8, Section 8-63. The \$80.00 was subsequently paid by the Defendant to Mr. Jernigan.

(19) It ^{WAS} ~~is further~~ stipulated that upon initially discussing the matter with Jernigan, Defendant did not intend to represent Jernigan and in fact charged no fee for the services rendered, and never received any money whatsoever from Jernigan.


UPON THE FOREGOING FINDINGS OF FACT, THE HEARING COMMITTEE MAKES THE FOLLOWING CONCLUSIONS OF LAW:

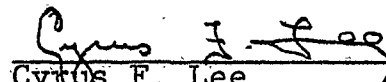
(1) Upon the request for representation by Leonard T. Jernigan, the Defendant neglected a legal matter entrusted to him by failing to correspond with Herbert Thomas and by failing to advise Leonard T. Jernigan of the status of this case or required court appearances as set forth in the foregoing Findings of Fact in violation of Disciplinary Rule 6-101(A)(3) of the Code of Professional Responsibility.

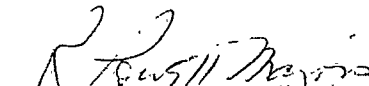
(2) By failing to advise Leonard T. Jernigan of the required court appearances, thereby causing Leonard T. Jernigan to be arrested and to have to post additional bonds, the Defendant intentionally prejudiced and damaged his client during the course of the professional relationship in violation of Disciplinary Rule 7-101(A)(3) of the Code of Professional Responsibility

(3) In failing to appear before the Court when subpoenaed or to notify the Court or Leonard T. Jernigan that he would not be present, the Defendant engaged in professional conduct prejudicial to the administration of justice adversely reflecting on his fitness to practice law in violation of Disciplinary Rule 1-102(A)(5)(6) of the Code of Professional Responsibility.

This the 14th day of October, 1977.


Dudley Humphrey, Chairman


Cyrus F. Lee


R. Powell Majors

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NORTH CAROLINA
WAKE COUNTY

B.E. JAMES, SEC.
THE N.C. STATE BAR

BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
77 DHC 12

THE NORTH CAROLINA STATE BAR,)
Plaintiff,)
vs.)
CHARLES E. VICKERY, Attorney,)
Defendant.)

ORDER

THE HEARING COMMITTEE having found the facts and made conclusions of law in above-entitled action,

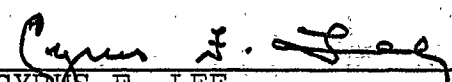
IT IS NOW, THEREFORE, ORDERED:

1. That the defendant, Charles E. Vickery, be disciplined under the provision of North Carolina General Statutes 84-28(c)(4) private reprimand, and that the letter of reprimand be prepared by the Chairman of the Disciplinary Hearing Committee and delivered to the defendant in the office of The North Carolina State Bar, 107 Fayetteville Street, Raleigh, North Carolina, by the Secretary of The North Carolina State Bar, a copy of said reprimand to be filed with the Secretary of The North Carolina State Bar.

2. That the costs of this disciplinary action be paid by the defendant, Charles E. Vickery.

This 14th day of October.


DUDLEY HUMPHREY, Chairman


CYRUS F. LEE


R. POWELL MAJORS