

NORTH CAROLINA  
WAKE COUNTY

BEFORE THE  
GRIEVANCE COMMITTEE  
OF THE  
NORTH CAROLINA STATE BAR  
15G1157

---

IN THE MATTER OF	)	
	)	REPRIMAND
JAMAL M. SUMMEY,	)	
ATTORNEY AT LAW	)	

---

On July 27, 2017 the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by the North Carolina State Bar. The grievance was assigned to a Subcommittee, which thoroughly reviewed the results of the State Bar staff's investigation of this matter.

Pursuant to Section .0113(a) of the Discipline and Disability Rules of the North Carolina State Bar, the Grievance Subcommittee conducted a preliminary hearing. After considering the information available to it, including your response to the letter of notice, the Grievance Subcommittee 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.

Your law partner represented Jimell Horton, who was charged with double homicide. Witnesses in the Horton case indicated that someone named "Little Jimmy" drove Horton back to the vicinity of the crime scene on the night of the murders, at which point Horton retrieved a gun he had discarded earlier in the evening. During the week prior to the Horton trial, you spoke with Little Jimmy about representation on a misdemeanor charge. You also discussed the fact that

police and prosecutors had been trying to contact Little Jimmy regarding the Horton case. You advised Little Jimmy to assert his Fifth Amendment privilege if he was called to testify in the Horton trial. When the State called Little Jimmy to testify on the third day of trial, Little Jimmy pled the fifth in response to virtually every question, including "did you have breakfast this morning?"

Your law partner could not have given legal advice (specifically, recommending that he plead the Fifth) to a potentially critical State's witness against his client. Under Rule 1.10(a), your partner's conflict was imputed to you, and giving legal advice to Little Jimmy was in violation of the Rule.

After examining you under oath regarding your involvement with Little Jimmy, the Court declared a mistrial, noting that you and your law partner had conflicts of interest, and that your decision to advise Little Jimmy when you knew that he was a potential witness in the Horton case "prevented the defendant from having the representation guaranteed to him by the Sixth Amendment." Your conduct was prejudicial to the administration of justice in violation of Rule 8.4(d), in that three days of court time were wasted and a mistrial declared because of your actions.

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 July 23, 2010 by the Council of the North Carolina State Bar regarding the taxing of administrative fees and investigative costs to any attorney issued a reprimand by the Grievance Committee, an administrative fee in the amount of \$350.00 is hereby taxed to you.

Done and ordered, this the 15<sup>th</sup> day of August, 2017.

  
DeWitt "Mac" McCarley, Chair  
Grievance Committee

DM/lb