

WAKE COUNTY  
NORTH CAROLINA

BEFORE THE  
DISCIPLINARY HEARING COMMISSION  
OF THE  
NORTH CAROLINA STATE BAR  
89 DHC D2

THE NORTH CAROLINA STATE BAR  
Plaintiff

v.

BRUCE C. FRASER, ATTORNEY  
Defendant

FINDINGS OF FACT  
AND  
CONCLUSIONS OF LAW

This cause was heard by a Hearing Committee of the Disciplinary Hearing Commission consisting of John B. McMillan, Chairman; Karen Boyle and Donald Osborne on Friday, March 9, 1990. The case was continued until Friday, May 18, 1990 by consent of all parties, at which time the remaining evidence was taken and the hearing was concluded. The Defendant was represented by Michael Grace and the Plaintiff was represented by Carolin Bakewell. Based upon the pleadings and the evidence, the Committee makes the following:

FINDINGS OF FACT

1. The Plaintiff, 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 it in 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, Bruce C. Fraser, was admitted to the N.C. State Bar in 1973 and is, and was at all times referred to herein, an attorney at law licensed to practice in North Carolina, subject to the rules, regulations and the Rules of Professional Conduct of the North Carolina State Bar and the laws of the State of North Carolina.
3. During all of the periods referred to herein, Fraser was engaged in the practice of law in the State of North Carolina and maintained a law office in the city of Winston-Salem, North Carolina.
4. On April 6, 1989, the Defendant was appointed to represent Harry D. Daye respecting charges of common law robbery filed against Daye.
5. The Defendant failed to communicate adequately with Daye.
6. The Defendant failed to appear on Daye's behalf at a hearing on April 12, 1989.
7. On Feb. 14, 1989, the Defendant was appointed to represent

Australia Johnson Smith respecting charges of carrying a concealed weapon and drug offenses.

8. The Defendant failed to communicate adequately with Smith and failed to appear at a hearing on Smith's behalf on July 7, 1989.

9. On or about March 6, 1989, the Defendant was appointed to represent Sodonya Nichole Hughes respecting various drug and alcohol related charges.

10. The Defendant failed to appear at a hearing on August 7, 1989 on Ms. Hughes' behalf.

11. The Defendant was removed as Ms. Hughes' attorney by court order on August 7, 1989 following his failure to appear.

12. In September, 1988, Sandra Childs Painter retained the Defendant to represent her respecting injuries she had received in an automobile accident.

13. On June 13, 1989, counsel for the opposing party scheduled Ms. Painter's deposition. The Defendant failed to appear at the deposition.

14. Ms. Painter's deposition was rescheduled for June 29, 1989. The Defendant arrived at the deposition late.

15. On or about January 31, 1989, the Defendant was hired by Kenneth Kizer to handle the appeal of Kizer's speeding conviction. The Defendant indicated that he would charge \$300 and Kizer paid the Defendant \$100 toward the fee.

16. In May, 1989, the Defendant told Kizer that he had worked out an agreement with the district attorney whereby Kizer would be allowed to plead to lesser charges. The Defendant instructed Kizer to pay \$140 to his secretary to cover the costs and fines. Kizer paid the money as instructed.

17. The Defendant did not arrange for a plea bargain nor did he take adequate steps to prepare Kizer's case.

18. Kizer's case was scheduled for trial on July 17, 1989, at which time neither Kizer nor the Defendant appeared. The Defendant did not notify Kizer of the hearing date.

19. Thereafter, an order for Kizer's arrest was issued, for his failure to appear in Superior Court on July 17.

20. Following the May, 1989 hearing, the Defendant refused to communicate adequately with Kizer and failed to return the \$100 fee or the \$140 paid by Kizer as a fine and costs.

21. The hearing panel failed to find by clear, cogent and convincing evidence that the Defendant engaged in dishonest conduct respecting Mr. & Mrs. Kenneth Kizer, but did find that his actions regarding the Kizers were a part of his pattern of neglect during this period of time.

22. On or about Feb. 9, 1988, the Defendant was appointed to represent

Charles Bradley Jeffords on charges of breaking and entering.

23. The Defendant failed to communicate adequately with Jeffords and neglected his case.

24. The Defendant failed to appear in court on Jeffords' behalf at a hearing on July 18, 1988.

25. The hearing panel failed to find by clear, cogent and convincing evidence that the defendant violated the Rules of Professional Conduct respecting his representation of Timothy Ray Barringer, Gina Hoilman and or Vincent Tryone Williams.

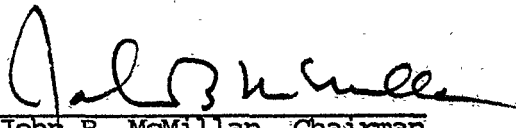
Based upon the foregoing findings of fact, the Committee makes the following conclusions of law:

(a) By failing to appear at hearings on behalf of Australia Smith, Charles Jeffords, Sodonya Hughes and Harry Daye, the Defendant neglected legal matters entrusted to him in violation of Rule 6(B)(3), failed to complete contracts of employment in violation of Rule 7.1(A)(2) and prejudiced clients in violation of Rule 7.1(A)(3).

(b) By failing to communicate adequately with Smith, Kizer, Jeffords and Daye, the Defendant violated Rule 6(B)(1).

(c) By failing to appear at the deposition of Sandra Childs Painter on June 13, and by appearing late at the June 29 deposition, the Defendant neglected a legal matter entrusted to him in violation of Rule 6(B)(3).

This the 21<sup>st</sup> day of June, 1990.

  
John B. McMillan, Chairman  
For the Committee

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ORDER OF DISCIPLINE

This cause was heard by the undersigned, duly appointed Hearing Committee of the Disciplinary Hearing Commission of the North Carolina State Bar on Friday, March 9, 1990 and Friday, May 18, 1990. Based upon the evidence presented in the trial and the arguments of counsel for the parties relating to discipline, the Committee enters the following:

FINDINGS OF FACT

1. The Defendant is an alcoholic and was abusing alcohol and using illegal drugs at the time of the misconduct set out in the previous Findings of Fact.

2. The Defendant's misconduct is aggravated by the following factors:

a. The Defendant engaged in extensive use of cocaine at the time of the misconduct.

b. The Defendant's misconduct constituted a pattern of neglect and failure to communicate.

c. The Defendant received a prior Private Reprimand for neglect in 1983.

d. The Defendant's misconduct had a substantial, adverse impact on the administration of justice in Forsyth County in 1988 and 1989.

3. In the fall of 1989, after several grievances were filed against him with the N.C. State Bar, the Defendant received treatment for his alcohol and drug abuse and has presented substantial evidence of rehabilitation.

4. The Defendant has a reputation as a capable and effective attorney, when he is sober and not using illegal drugs.

Based upon the Findings of Fact and Conclusions of Law entered in this

cause and the evidence presented relating to the appropriate discipline the Hearing Committee enters the following:

#### ORDER OF DISCIPLINE

1. The Defendant is hereby suspended from the practice of law for a period of three years, commencing 45 days after service of this order upon the Defendant.

2. At any time after one year of the suspension has elapsed, the Defendant may apply for an order staying the remaining term of the suspension, upon the following conditions, which are entered with the Defendant's consent:

(a) The Defendant shall file a petition for reinstatement pursuant to Section 25(B) of the Discipline & Disbarment Rules of the N.C. State Bar;

(b) The Defendant shall abstain from the use of alcohol and illegal substances;

(c) The Defendant shall submit to random drug testing at the request of the N.C. State Bar. The Defendant shall pay the costs of such tests.

(d) The Defendant shall meet with an attorney, to be approved by the Secretary of the N.C. State Bar, not less than once each month throughout the stay period. The purpose of the meeting will be to insure that the Defendant is handling client matters promptly and effectively. The Defendant and the supervising attorney shall agree to respond promptly to inquiries of the N.C. State Bar respecting the meetings and the Defendant's handling of client matters. Additionally, the Defendant shall submit written reports each quarter, to be signed by the supervising attorney, indicating that the meetings have taken place and that the Defendant is handling client matters with dispatch.

(e) The Defendant shall successfully complete at least three hours of ethics during the first year of the suspension period, in addition to the minimum continuing legal education requirements of the N.C. State Bar. The ethics courses must be offered by a sponsor approved by the CLE department of the N.C. State Bar.

(f) The Defendant shall attend at least one meeting per month of AA, NA or a similar organization.

(g) The Defendant shall comply with the course of treatment recommended by his physician and/or counselor at Fellowship Hall.

(h) The Defendant shall present proof that he has reimbursed \$240 to Kenneth J. Kizer.

3. If the Defendant does not obtain a stay, the Defendant shall comply with the conditions set out in paragraph 2 (a) through (c) and (f) through (h) above before obtaining the reinstatement of his license at the end of the three-year period of suspension. In addition, the Defendant shall

present proof that he has complied with all continuing legal education requirements of the N.C. State Bar for each year of the three year suspension period and shall present further proof that he has taken three additional hours of continuing legal education in ethics above the amount required by the Bar.

4. The Defendant shall comply with Section 24 of the Discipline & Disbarment Rules.

5. The Defendant shall pay the costs of this proceeding.

Signed by the Chairman with the knowledge and consent of the committee members this the 21<sup>st</sup> day of June, 1990.

  
John B. McMillan, Chairman