

NORTH CAROLINA  
WAKE COUNTY

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NOV 9 1991  
BEFORE THE  
DISCIPLINARY HEARING COMMISSION  
OF THE  
NORTH CAROLINA STATE BAR  
91 DHC 17

THE NORTH CAROLINA STATE BAR,  
Plaintiff

vs.

DOUGLAS OSBORNE, JR. ATTORNEY  
Defendant

FINDINGS OF FACT  
AND  
CONCLUSIONS OF LAW

This matter scheduled to be heard on November 21, 1991 before a hearing committee of the Disciplinary Hearing Commission composed of Maureen D. Murray; Chairman, Frank L. Boushee and Robert C. Bryan; with Kenneth D. Knight representing the Defendant, and A. Root Edmonson representing the North Carolina State Bar; and based upon the pleadings and the consent of the parties, the hearing committee finds the following to be supported by clear, cogent and convincing evidence:

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, Douglas Osborne, Jr., was admitted to the North Carolina State Bar in 1975, 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 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, the Defendant was actively engaged in the practice of law in the State of North Carolina and served as an assistant district attorney in the 17A Judicial District while living in Eden, Rockingham County, North Carolina.
4. In response to Defendant's previous order from a catalogue, a videotape cassette of two films

depicting minors engaged in sexually explicit conduct was delivered to Defendant's home address.

5. Defendant was subsequently indicted by a grand jury in the U.S. District Court for the Middle District of North Carolina (Middle District) for a violation of Title 18, United States Code, Section 2252 (a)(2).
6. In April, 1990, Defendant was tried for the above referenced offense in the Middle District upon a plea of not guilty.
7. Defendant was convicted by a jury in the Middle District of a violation of Title 18, USC, Section 2252(a)(2).
8. In July, 1990, sentence was imposed by Judge N. Carlton Tilley, Jr. for the above referenced offense.
9. Defendant subsequently entered notice of appeal and perfected an appeal to the Fourth Circuit Court of Appeals.
10. On or about May 28, 1991 the Fourth Circuit Court of Appeals affirmed Defendant's conviction.
11. The crime that Defendant was convicted of in the Middle District is a serious crime as defined in Article IX, Section 3(30) of the rules and regulations of the North Carolina State Bar in that the offense is a felony.

BASED UPON the foregoing Findings of Fact, the hearing committee makes the following:

#### CONCLUSIONS OF LAW

The conduct of Defendant, as set forth above, constitutes grounds for discipline pursuant to N. C. Gen. Stat. Sections 84-28(b)(1) and (2) in that:

By being convicted of a felony that reflects adversely on the lawyer's fitness as a lawyer, Defendant violated N.C. Gen. Stat. Section 84-28(b)(2) by violating Rule 1.2(B) of the Rules of Professional Conduct.

Signed by the undersigned chairman with the full knowledge and consent of the other hearing committee members, this the 18th day of November, 1991.

Maureen D. Murray  
Maureen D. Murray, Chairman  
Hearing Committee

Consented to:

A. R. Edmonson  
A. Root Edmonson, Deputy Counsel  
North Carolina State Bar

Kenneth D. Knight  
Kenneth D. Knight  
Attorney for Douglas Osborne, Jr.

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NORTH CAROLINA

WAKE COUNTY

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THE NORTH CAROLINA STATE BAR,  
Plaintiff

vs.

DOUGLAS OSBORNE, JR. ATTORNEY  
Defendant

CONSENT ORDER  
OF DISCIPLINE

BASED UPON the Findings of Fact and Conclusions of Law of even date herewith; and further based upon the consent of the attorneys for the parties whose signatures are affixed hereto; and in consideration of the aggravating and mitigating factors listed herein; the hearing committee of the Disciplinary Hearing Commission composed of Maureen D. Murray, Chairperson, Robert C. Bryan, and Frank L. Boushee find the following:

AGGRAVATING FACTORS

1. At the time that Osborne ordered the videotapes he was convicted of receiving in interstate commerce, he had been led to believe that the videotapes he ordered involved subjects under 17 years of age.
2. Osborne's offense was committed at a time when he was himself a prosecutor, he being an assistant district attorney in the 17A Judicial District.

MITIGATING FACTORS

1. Osborne ceased the practice of law upon his arrest and has not practiced since November 30, 1989.
2. Osborne's offense was not an offense that showed dishonesty or selfish intent.
3. Osborne had no prior disciplinary offenses.
4. At the time of his offense, Osborne enjoyed a good character and reputation.

BASED UPON the foregoing, and with counsel for Osborne expressly agreeing by his signature below that the amendments to

N. C. Gen. Stat. Sec. 84-28(c)(2) which became effective on October, 1991 apply to this matter, the hearing committee enters the following:

ORDER OF DISCIPLINE

1. Douglas Osborne, Jr. is suspended from the practice of law for a period of five (5) years from August 3, 1990. This will allow the suspension to run for the entire period Osborne is subject to supervised release.
2. Osborne may apply for a stay of any remaining portion of his suspension after he is released from active imprisonment in the custody of the U.S. Bureau of Prisons upon the following conditions:
  - a) Osborne may petition for a stay by addressing a verified petition to the Secretary of the North Carolina State Bar which shall conform as closely as possible to the requirements of a petition for reinstatement after suspension of license pursuant to Section 25(B) of Article IX of the Rules and Regulations of the North Carolina State Bar. In addition to the requirements of Section 25(b)(3), Osborne's verified petition for the stay shall also aver his release from prison.
  - b) Osborne's petition for a stay shall be handled by the Secretary and the Office of Counsel of the North Carolina State Bar and the petitioner as though it were a petition for reinstatement of a suspended attorney by conforming as closely as possible to the procedures set out in Section 25(B) of Article IX of the Rules and Regulations of the North Carolina State Bar.
  - c) During the period of any stay of the above referenced suspension, Osborne must comply with all of the conditions of supervised release contained in Judge N. Carlton Tilley, Jr.'s July 30, 1990 judgment in CR-90-43-01-6 in the U.S. District Court for the Middle District of North Carolina.
  - d) Osborne shall not violate any of the Rules of Professional Conduct during the period of any stay.
  - e) Any violation of supervised release found by a judge of the federal court or any violation of the Rules of Professional Conduct shall be grounds for lifting the stay pursuant to the

appropriate procedures in effect at the time  
of the violation of the stay conditions.

3. Osborne is taxed with the cost of this proceeding  
as assessed by the Secretary.

Signed by the undersigned chairman of the hearing committee  
of the Disciplinary Hearing Commission with the full knowledge  
and consent of the other members of the hearing committee and the  
consent of the parties affixed to this document, this the 18th  
day of November, 1991.

Maureen D. Murray  
Maureen D. Murray, Chairman  
Hearing Committee

Consented to:

A. R. Edmonson  
A. Root Edmonson, Deputy Counsel  
North Carolina State Bar

Kenneth D. Knight  
Kenneth D. Knight  
Attorney for Douglas Osborne, Jr.