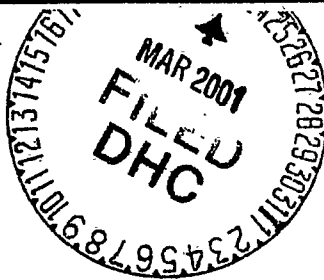


NORTH CAROLINA  
WAKE COUNTY



7394  
BEFORE THE SECRETARY  
OF THE  
NORTH CAROLINA STATE BAR  
01 BSR 02

IN RE REINSTATEMENT OF  
FRED J. WILLIAMS, ATTORNEY

ORDER OF REINSTATEMENT  
AND  
STAY OF SUSPENSION

THIS MATTER is before the Secretary of the North Carolina State Bar pursuant to a Petition for Reinstatement filed by Fred J. Williams on February 19, 2001.

Based upon a review of the records of the North Carolina State Bar, the Secretary makes the following:

#### FINDINGS OF FACT

1. Pursuant to an Order of Interim Suspension entered on May 22, 2000 by the Disciplinary Hearing Commission of the North Carolina State Bar in matter 00 DHC 14, the license of Fred J. Williams was suspended until the conclusion of all disciplinary proceedings against Williams.
2. At the conclusion of all disciplinary proceedings, the Disciplinary Hearing Commission suspended Williams' license for a period of three years, effective June 21, 2000.
3. The Order of Discipline provides that Williams would be eligible for reinstatement of his license and a stay of the remaining three-year suspension on December 21, 2000, upon compliance with the disciplinary conditions set out in the Order of Discipline.
4. On February 19, 2001, Williams filed a petition for reinstatement, along with an accompanying affidavit attesting to his compliance with the conditions for obtaining the reinstatement of his license and a stay of his suspension pursuant to the Order of Discipline.
5. After conducting an investigation of Williams' requirements set out in the Order of Discipline and N.C. State Bar Discipline and Disability Rules, 27 N.C. Admin.

Code, Chapter 1, Subchapter B, Section .0125 (hereafter "Discipline Rule .0125"), Counsel for the North Carolina State Bar did not file a response objecting to the petition for reinstatement.

BASED UPON the foregoing Findings of Fact, the Secretary makes the following:

#### CONCLUSIONS OF LAW

1. The Petitioner, Fred J. Williams, has satisfied the requirements set out in the Order of Discipline and Discipline Rule .0125(b) for reinstatement of his license and for the stay of his suspension.

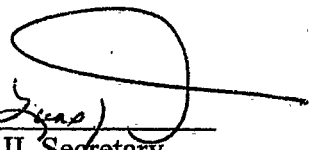
2. Williams must continue to comply with all of the conditions set forth in the Order of Discipline for the stay of his suspension to remain in effect.

THEREFORE, pursuant to Discipline Rule .0125(b), it is hereby ordered that:

1. Fred J. Williams is reinstated to the active practice of law in North Carolina and the remaining period of the suspension of Williams' license is stayed as long as he continues to meet all of the conditions set forth in the Order of Discipline entered against him by the Disciplinary Hearing Commission in matter 00 DHC 14. A copy of the Order of Discipline is attached hereto and incorporated herein by reference.

2. Pursuant to Discipline Rule .0125(b)(2), the stay of Williams' suspension shall be effective on March 20, 2001, which is 30 days from the filing of his petition for reinstatement.

This the 23<sup>rd</sup> day of March, 2001.

  
L. Thomas Lunsford II, Secretary  
The N.C. State Bar



THE NORTH CAROLINA STATE BAR,  
PLAINTIFF,

v.

FRED J. WILLIAMS, ATTORNEY  
DEFENDANT.

ORDER OF DISCIPLINE

This matter was heard on the 14<sup>th</sup> day of July 2000, before a Hearing Committee of the Disciplinary Hearing Commission composed of Kenneth M. Smith, Chair; Michael L. Bonfoey and Lorraine Stephens. The Defendant, Fred J. Williams, was represented by Irving Joyner. The plaintiff was represented by Larissa J. Erkman. All parties are properly before the Hearing Committee. The Committee has jurisdiction over the Defendant, Fred J. Williams, and the subject matter of this proceeding.

Summary judgment was granted for the North Carolina State Bar on the issue of whether Defendant is subject to discipline under N.C. Gen. Stat. § 84-28(b)(1) and Rule 8.4(b) of the Revised Rules of Professional Conduct. The only issue to be decided by the Hearing Committee is what discipline ought to be imposed.

Based upon the pleadings on file, including the Stipulations on Pretrial Conference submitted by the parties, upon the evidence and arguments of the parties concerning the appropriate discipline, and upon the Findings of Fact recited in the Order on Summary Judgment, the Hearing Committee hereby makes the following additional findings of fact:

FINDINGS OF FACT REGARDING DISCIPLINE

1. On May 22, 2000, an Order of Interim Suspension was entered by the Disciplinary Hearing Commission against Defendant, whereby Defendant's license to practice law was suspended until the conclusion of all disciplinary proceedings pending before the North Carolina State Bar. The Order of Interim Suspension became effective 30 days after entry of the order on June 21, 2000.
2. The Defendant's misconduct, as described in the Findings of Fact contained in the Order on Summary Judgment, is aggravated by the following factor:

Substantial experience in the practice of law, particularly as a criminal defense attorney, former Superior Court judge, and professor of law.

3. The Defendant's misconduct, as described in the Findings of Fact contained in the Order on Summary Judgment, is mitigated by the following factors:

- a) Absence of a prior disciplinary record;
- b) Absence of dishonest or selfish motive;
- c) Full and free disclosure to the Hearing Committee and cooperative attitude toward the proceedings;
- d) Excellent character and reputation in the legal community -- Defendant presented compelling evidence of his exemplary reputation as a law professor and practicing attorney in Durham, North Carolina.
- e) Imposition of other penalties or sanctions, in the form of criminal sanctions imposed by the Hart County Superior Court, including a 5-year probationary sentence and monetary penalties and fines; and
- f) A showing of sincere remorse for his misconduct.

4. The mitigating factors outweigh the aggravating factors.

Based upon the foregoing aggravating and mitigating factors and the arguments of the parties, the Hearing Committee hereby enters the following

#### ORDER OF DISCIPLINE

1. The license of the Defendant, Fred J. Williams, is hereby suspended for three years. The suspension of Defendant's license shall be effective as of June 21, 2000, the effective date of the Interim Order of Suspension entered in this matter, and shall continue thereafter for a period of six (6) consecutive months, or until December 21, 2000.

2. The suspension of Defendant's license is thereafter stayed and the Defendant's license to practice law is reinstated so long as Defendant complies with the following terms and conditions prior to and during the period of the stay:

- (a) The Defendant shall not violate any state or federal laws.
- (b) The Defendant shall not violate any provisions of the North Carolina State Bar Discipline & Disability Rules or the Revised Rules of Professional Conduct.
- (c) The Defendant shall comply with all standard and special conditions of his suspended sentence in the State of Georgia under the First Offender's Program.

(d) The Defendant shall report to the Office of the Secretary of the North Carolina State Bar the name, address and telephone number of his probation officer in Durham County.

(e) The Defendant shall report to the Office of the Secretary of the North Carolina State Bar any finding by any court or probation officer that he has violated the terms of his probationary sentence under the First Offenders Program in the State of Georgia, regardless of whether punishment is imposed for said violation.

(f) Defendant shall not use, consume, or possess any controlled substances in violation of the laws of the State of North Carolina or the laws of the United States of America.

(g) Defendant shall submit to random drug testing and urinalysis within twelve hours after a telephone request by the Office of Counsel of the North Carolina State Bar. The test shall be performed at a testing facility designated by the North Carolina State Bar. A Notice of Request for a drug test shall be filed with the Disciplinary Hearing Commission in this matter giving the date and time of the request and the location where the test is to be performed. When filed, a copy of the Notice of Request shall be sent to Defendant by certified mail. The Defendant shall file with the Disciplinary Hearing Commission a Notice of Compliance, along with a certified copy of the drug test results, within ten (10) days of service upon Defendant of the Notice of Request. Random drug testing shall be performed at the expense of Defendant.

(h) Defendant shall file a Notice of Compliance with the Disciplinary Hearing Commission for each drug test that he undergoes at the request of his probation officer or any court pursuant to the terms of Defendant's suspended sentence under the Georgia First Offender Program. The Notice of Compliance shall state the date that the drug test was requested; the party requesting the drug test; the date and location where the drug test was performed; and shall attach a certified copy of the drug test results.

(i) Except by order of the Disciplinary Hearing Commission for good cause shown, the Office of Counsel shall not request that Defendant undergo a drug test within 30 days of any test performed on Defendant at the request of Defendant's probation officer or any court pursuant to the terms of Defendant's suspended sentence under the Georgia First Offender Program.

(j) Within six months of the effective date of this Order, Defendant, at his expense, shall obtain an addiction and mental health evaluation by a qualified physician approved by the Lawyer Assistant Program of the North Carolina State Bar and the State Bar Office of Counsel. The evaluation shall comply with the addiction/mental health evaluation protocol adopted by the

Lawyer Assistance Program. The evaluating physician shall, in part, consider whether Defendant suffers from an addiction to any legal or illegal substance and/or suffers from any mental health problem, disorder or disease.

(k) A copy of the physician's report on Defendant's addiction and mental health evaluation shall be provided to the Lawyer Assistance Program and to the State Bar Office of Counsel.

(l) If upon receipt of the physician's evaluation report the Lawyer Assistance Program deems it reasonably necessary, then Defendant shall enter into a consent order and rehabilitation contract with the Lawyer Assistance Program regarding a medical treatment plan under such terms and conditions as the Lawyer Assistance Program deems appropriate. Defendant shall comply with all terms of the consent order and rehabilitation contract throughout the period of the stayed suspension and shall cooperate fully with the Lawyer Assistance Program.

(m) As part of any consent order and rehabilitation contract with the Lawyer Assistance Program, Defendant shall authorize the Lawyer Assistance Program and its representatives to release all records and information concerning his participation in the Program to the Office of Counsel and the Disciplinary Hearing Commission. Such information may include, but is not limited to, records and information concerning whether Defendant has complied with the consent order and rehabilitation contract and records or reports of medical treatments or evaluations that Defendant receives or undergoes in conjunction with his participation in the Program. Defendant shall also expressly waive any right which he may otherwise have to confidential communications with persons acting on behalf of the Lawyer Assistance Program to the extent it is necessary for such persons to communicate to the Office of Counsel and the Disciplinary Hearing Commission whether Defendant is cooperating and satisfactorily participating in the agreed upon rehabilitation program or has completed that program.

(n) Defendant has an interest in keeping confidential those records that are subject to the physician-patient privilege, which interest overrides any interest of the public in obtaining disclosure of those records. That overriding interest cannot be protected by any measure short of sealing the records so produced. Except pursuant to an order of the Disciplinary Hearing Commission, or other court of competent jurisdiction, the Office of Counsel of the North Carolina State Bar shall keep confidential all physician's reports or other medical records obtained pursuant to subparagraphs 2j-2m above, and shall not disclose those records to any person other than officers, councilors and employees of the North Carolina State Bar and members of the Disciplinary Hearing Commission. Defendant's consent to an order and rehabilitation contract with the Lawyer Assistance Program shall not be deemed to be a waiver of the physician-patient privilege for any purpose other

than for production of documents and information to the Lawyer Assistance Program and to the Office of Counsel as required by this order.

(o) Defendant shall be responsible for all costs associated with complying with this order and the above-mentioned conditions. Under no circumstances, shall the State Bar be responsible to Defendant or any third parties for the costs of Defendant's compliance with the conditions of this order.

(p) Defendant shall pay all costs incurred in this proceeding and taxed against him by the Secretary of the North Carolina State Bar within 180 days of receiving notice of such costs.

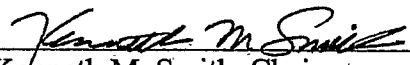
3. If during any period in which the three-year suspension is stayed the Defendant fails to comply with any one or more conditions stated in paragraph 2, then the stay of the suspension of his law license may be lifted as provided in §.0114(x) of the North Carolina State Bar Discipline & Disability Rules.

4. If the stay of the suspension of the Defendant's law license is lifted, the Disciplinary Hearing Commission may enter an order providing for such conditions as it deems necessary for reinstatement of the Defendant's license at the end of the three-year suspension period.

5. The Disciplinary Hearing Commission will retain jurisdiction of this matter pursuant to 27 N.C. Admin. Code Chapter 1, Subchapter B, §.0114(x) of the North Carolina State Bar Discipline & Disability Rules throughout the period of the stayed suspension.

Signed by the undersigned Hearing Committee chair with the consent of the other Hearing Committee members.

This the 21 day of September, 2000.

  
Kenneth M. Smith, Chairman  
DHC Hearing Committee