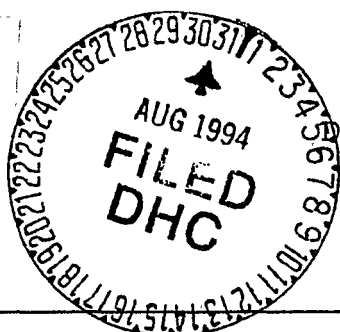


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NORTH CAROLINA
WAKE COUNTY



BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
94 DHC 6

THE NORTH CAROLINA STATE BAR,
Plaintiff

vs.

THOMAS M. JOHNSON, ATTORNEY
Defendant

ORDER OF DISBARMENT

This matter being before the undersigned chairperson of the Disciplinary Hearing Commission pursuant to Article IX, Section 17(D) of the Rules and Regulations of the North Carolina State Bar upon the defendant's affidavit of Consent to Disbarment signed on the 18th day of August 1994, acknowledged on the 24th day of August 1994 and filed on the 25th day of August 1994, and based upon the Consent to Disbarment, the undersigned finds the following:

1. The Consent to Disbarment was freely and voluntarily rendered, it was not the result of coercion or duress, and the defendant was fully aware of the implications of submitting the Consent to Disbarment.
2. Defendant is aware that there is a hearing presently scheduled concerning the allegations contained in the complaint in this matter, and that by submitting the Consent to Disbarment, defendant is giving up his right to defend against those allegations at that hearing.
3. Defendant has admitted that the material facts upon which the complaint is predicated are true.
4. Defendant has admitted that he submitted the Consent to Disbarment because he knew he could not successfully defend against the allegations contained in the complaint.

Based upon the foregoing Findings of Fact, the undersigned concludes as follows:

1. The affidavit of defendant contained in his Consent to Disbarment meets the requirements of Section 17(D) of Article IX of the Rules and Regulations of the North Carolina State Bar.
2. The Consent to Disbarment filed by the defendant should be accepted.

THEREFORE, it is hereby ordered:

1. The defendant, Thomas M. Johnson, is hereby DISBARRED

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majority does not believe that Rule 1.2(B) as presently written adequately defines what criminal act impacts upon the fitness of a lawyer to practice law. The principal witness in this case sought and was unable to obtain a criminal conviction for the acts complained of. The North Carolina State Bar is now requesting the hearing committee to determine whether it believes a criminal act was committed and if so, whether or not such conduct reflects on his honesty, trustworthiness and fitness as a lawyer.

The Rules of Professional Conduct leave to the broad discretion of the hearing committee what criminal acts may reflect on the fitness of a lawyer to practice law. The North Carolina Rules of Professional Conduct do not directly address the question of whether a lawyer may engage in illegal conduct involving moral turpitude, or give any guideline as to whether the conduct complained of in this case should be held to reflect upon the honesty, trustworthiness or fitness of the Defendant to practice law. Thus, the majority of the panel concludes that the Defendant should not be held professionally answerable for his alleged misconduct regarding the chief complainant in these circumstances when he has not been convicted of a crime. (See also the Comment to Rule 1.2)

IT IS THEREFORE ORDERED, that this action is dismissed. The State Bar is taxed with the costs.

Signed by the chairman and Mary Elizabeth Lee who voted for dismissal of the action, this the 21st day of July, 1994.



SAMUEL JEROME CROW, Chairman



MARY ELIZABETH LEE