

12168

WAKE COUNTY DHC BEFORE THE DISCIPLINARY HEARING COMMISSION
OF THE NORTH CAROLINA STATE BAR
02 DHC 19

THE NORTH CAROLINA STATE BAR,)
Plaintiff)
v.) CONSENT ORDER OF DISABILITY
CHARLES E. HESTER JR.,)
Defendant)

This matter came before a Hearing Committee of the Disciplinary Hearing Commission composed of Carlyn G. Poole, chair, M. Anni Reed, and Betty Ann Knudsen, pursuant to 27 N.C. Admin. Code 1 Subchapter B § .0114 and .0118(c) (hereafter, "Bar Rules"). Defendant, Charles E. Hester, Jr., represented himself pro se. Douglas J. Bocker and Carolin D. Bakewell represented plaintiff. All parties stipulate and agree to the findings of fact and conclusions of law recited in this consent order transferring defendant to disability inactive status. Based upon the consent of the parties, the hearing committee hereby enters the following:

FINDINGS OF FACT

1. Plaintiff, the North Carolina State Bar (hereafter "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. Defendant, Charles E. Hester, Jr. (hereafter "Hester"), was admitted to the North Carolina State Bar on March 24, 1984 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 the times relevant to this complaint, Hester actively engaged in the practice of law in the State of North Carolina and maintained a law office in the city of Selma, Johnston County, North Carolina.
4. The plaintiff's complaint in this matter asserted that Hester engaged in disciplinary violations.
5. Hester failed to answer or otherwise respond to the disciplinary complaint. Accordingly, default was entered against him, and a hearing was scheduled for January 17, 2003 to determine the appropriate discipline to be imposed for the violations established by default.
6. Just prior to the January 17, 2003 hearing, Hester submitted an affidavit asserting that he was disabled within the meaning of Bar Rule .0103(19).
7. Based on this assertion and pursuant to Bar Rule .0118(c)(1), on January 17, 2003, Hester was transferred to disability inactive status pending the conclusion of a final disability hearing.
8. Pursuant to the interim disability order, Hester was evaluated by a psychiatrist designated by the Lawyers Assistance Program, Dr. Philip L. Hillsman.
9. Dr. Hillsman has diagnosed Hester with Bipolar Disorder, Attention Deficit Hyperactivity Disorder, unspecified neurocognitive problems, Alcohol Dependence, and Polysubstance Abuse.
10. Dr. Hillsman found that Hester is disabled within the meaning of the Bar Rule .0103(19) in that he suffers from mental and physical conditions that significantly impair his professional judgment, performance, and competence as an attorney.
11. Dr. Hillsman concluded that Hester's prognosis for overcoming his disability was guarded.
12. Dr. Hillsman also concluded that it would take 2 years, at a minimum, before Hester could practice law in a competent manner again.
13. Dr. Hillsman also outlined various steps he believed Hester would have to take to attempt to overcome his disability.
14. Hester was properly served with process and has waived his right to a formal hearing on the disability issue.
15. Hester is competent to consent to this order.

Based upon the consent of the parties and the foregoing Findings of Fact, the hearing committee enters the following:

CONCLUSIONS OF LAW

1. All parties are properly before the hearing committee, and the committee has jurisdiction over Hester and the subject matter of this proceeding.
2. Hester suffers from physical and mental conditions that significantly impair his professional judgment, performance, and competence within the meaning of Bar Rule .0103(19).
3. Hester should be transferred to disability inactive status pursuant to North Carolina General Statute 84-28(g) and Bar Rule .0118(c)(1).
4. The disciplinary charges pending against Hester, as set out in the Bar's complaint, should be abated until such time as Hester is transferred to active status.

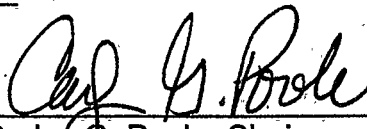
Based upon the foregoing findings of fact and conclusions of law, and based upon the consent of the parties, the hearing committee enters the following:

ORDER TRANSFERRING TO DISABILITY INACTIVE STATUS

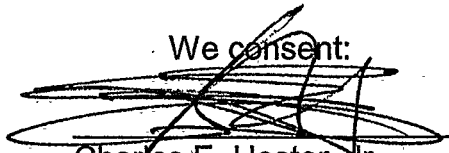
1. Charles E. Hester, Jr. is hereby transferred to disability inactive status pursuant North Carolina General Statute 84-28(g) and 27 N.C. Admin. Code 1 Subchapter B § .0118(c)(3). The order is effective immediately upon entry. Hester shall remain on disability inactive status unless reinstated by the Disciplinary Hearing Commission pursuant to 27 N.C. Admin. Code 1 Subchapter B § .0125(c).
2. The disciplinary proceeding is stayed so long as Hester remains on disability inactive status. If the Commission returns Hester to active status, the disciplinary proceeding will be rescheduled.
3. Hester shall pay the costs of this proceeding as assessed by the Secretary within 6 months of service of notice of the costs, including the cost of Dr. Hillsman's evaluation and report.
4. Hester's payment of costs, including the cost of Dr. Hillsman's evaluation and report, shall be a condition precedent to his reinstatement from disability inactive status.

Signed by the undersigned hearing committee chair with the consent of the other hearing committee members.

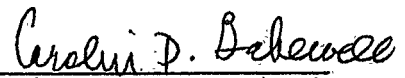
This the 31 day of March 2003.



Carolyn G. Poole, Chair
Hearing Committee

We consent:


Charles E. Hester, Jr.
Pro se Defendant



Carolyn D. Bakewell
Attorney for Plaintiff