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NORTH CAROLINA

WAKE COUNTY

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
96G0184(I)

IN THE MATTER OF)

DOUGLAS OSBORNE, JR,)
ATTORNEY AT LAW)

REPRIMAND

On July 25, 1996, the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by the State Bar.

Pursuant to section .0113(a) of the Discipline and Disability Rules of the North Carolina State Bar, the Grievance Committee conducted a preliminary hearing. After considering the information available to it, including your response to the letter of notice, the Grievance Committee found probable cause. Probable cause is defined in the rules as "reasonable cause to believe that a member of the North Carolina State Bar is guilty of misconduct justifying disciplinary action."

The rules provide that after a finding of probable cause, the Grievance Committee may determine that the filing of a complaint and a hearing before the Disciplinary Hearing Commission are not required and the Grievance Committee may issue various levels of discipline depending upon the misconduct, the actual or potential injury caused, and any aggravating or mitigating factors. The Grievance Committee may issue an admonition, reprimand, or censure to the respondent attorney.

A reprimand is a written form of discipline more serious than an admonition issued in cases in which an attorney has violated one or more provisions of the Rules of Professional Conduct and has caused harm or potential harm to a client, the administration of justice, the profession, or a member of the public, but the misconduct does not require a censure.

The Grievance Committee was of the opinion that a censure is not required in this case and issues this reprimand to you. As chairman of the Grievance Committee of the North Carolina State Bar, it is now my duty to issue this reprimand and I am certain that you will understand fully the spirit in which this duty is performed.

You were appointed to represent William H. McClelland in the appeal of his conviction of criminal charges. You failed to perfect Mr. McClelland's appeal.

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In your response to this grievance, you indicated that Mr. McClelland's appeal "slipped my mind." The Grievance Committee was concerned about your representation that you had forgotten Mr. McClelland's appeal, particularly when there was evidence that you received two reminders about Mr. McClelland's appeal. One reminder was from a clerk of court and another was from the clerk of the North Carolina Court of Appeals.

Your failure to perfect Mr. McClelland's appeal violates Rule 1.2(d), Rule 6(b)(3), and Rule 7.1(a)(1) of the Rules of Professional Conduct. Your neglect of Mr. McClelland's appeal had a potentially dire effect on Mr. McClelland's appeal to the North Carolina Court of Appeals.

You were served with a letter of notice in this grievance on March 9, 1996. You failed to respond within the time allowed under the State Bar rules. You finally responded to this grievance after you were subpoenaed to appear at the State Bar office.

Your failure to respond promptly to this grievance violates Rule 1.1(b) and Rule 1.2(d) of the Rules of Professional Conduct. Please respond promptly to any grievance that you receive in the future.

You are hereby reprimanded by the North Carolina State Bar due to your professional misconduct. The Grievance Committee trusts that you will heed this reprimand, that it will be remembered by you, that it will be beneficial to you, and that you will never again allow yourself to depart from adherence to the high ethical standards of the legal profession.

In accordance with the policy adopted October 15, 1981 by the Council of the North Carolina State Bar regarding the taxing of the administrative and investigative costs to any attorney issued a reprimand by the Grievance Committee, the costs of this action in the amount of \$50.00 are hereby taxed to you.

Done and ordered, this 9th day of August, 1996.



Ann Reed
Chair, Grievance Committee
The North Carolina State Bar