

NORTH CAROLINA

WAKE COUNTY

13516

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
96G0736(II)R

IN THE MATTER OF

JAMES P. GREEN JR.,
ATTORNEY AT LAW

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CENSURE

On April 3, 1997, the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by James L. Robinson.

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, a reprimand, or a censure.

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

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

In 1993, you undertook to represent James L. Robinson in a medical malpractice action. After having that case for some period of time, you attempted to file and serve a summons and complaint. The summons served was not signed by the clerk and the complaint was not signed by you. Accordingly, the defendants in that action successfully moved to dismiss the complaint based on insufficient service of process. Because the statute of limitations had already run, the defendants could not be served again and you appealed the court's ruling.

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Knowing that the case had been dismissed for insufficient service of process, you knowingly misrepresented to Mr. Robinson in a letter dated October 17, 1995 that the case had been dismissed on a motion for summary judgment. The reason stated in your letter for the trial judge's dismissal of the letter was that the case was not strong enough to merit a full jury trial. This statement was an intentional misrepresentation designed to mislead your client and prevent Mr. Robinson from discovering the real reason for the dismissal of his case.

Additionally, you were asked by this committee to respond to Mr. Robinson's grievance and specifically to the allegation that you had told him that the case had been dismissed due to insufficient evidence. In your response, you explicitly stated that you told Mr. Robinson that the case had been dismissed on a technicality and that you did not tell him that the case had been dismissed for insufficient evidence. This statement was another misrepresentation designed to cover up your prior actions -- this time made to the committee.

These actions violated at least two rules of professional conduct. First, your misrepresentation to Mr. Robinson about the reason for the dismissal of his case involved dishonesty, fraud, deceit and misrepresentation in violation of Rule 1.2(c). Second, your response to the committee regarding the reasons you had given Mr. Robinson for the dismissal of his case was a knowing false statement of material fact made in connection with a disciplinary matter, in violation of Rule 1.1(a).

In imposing its discipline against you for these offenses, the committee considered the fact your response set forth your stated efforts to make reforms in your practice to assure this type of situation would not reoccur, and that you had no prior discipline by the committee. These factors were considered in mitigation. As aggravating factors, the committee considered the fact that you failed to keep your client reasonably informed as to the status of matter and failed to respond to his reasonable requests for information.

You are hereby censured by the North Carolina State Bar for your violation of the Rules of Professional Conduct. The Grievance Committee trusts that you will ponder this censure, recognize the error that you have made, and that you will never again allow yourself to depart from adherence to the high ethical standards of the legal profession. This censure should serve as a strong reminder and inducement for you to weigh carefully in the future your responsibility to the public, your clients, your fellow attorneys and the courts, to the end that you demean yourself as a respected member of the legal profession whose conduct may be relied upon without question.

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 censure by the Grievance Committee, the costs of this action in the amount of \$50.00 are hereby taxed to you.

Done and ordered, this 30th day of April, 1997.

Ann Reed

Ann Reed
Chairman, Grievance Committee
The North Carolina State Bar