

NORTH CAROLINA

WAKE COUNTY

BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
89 DHC 40

THE NORTH CAROLINA STATE BAR,
Plaintiff

vs.

WILLIAM O. WARNER, ATTORNEY
Defendant

ORDER OF DISCIPLINE

BASED UPON the Findings of Fact and Conclusions of Law of even date herewith, and further based upon the evidence of prior discipline of the Defendant, his physical infirmities, and the depression he suffers from the medication taken for his physical infirmities, the hearing committee enters the following ORDER OF DISCIPLINE:

1. The Defendant, William O. Warner, is hereby suspended from the practice of law in North Carolina for a period of three years from the effective date of this order.
2. As a condition precedent to Defendant's reinstatement at the expiration of this suspension, Defendant shall have the burden of showing that he has had sufficient medical evaluation and treatment to overcome the depression from which he has been suffering, and that his physical illness and depression have been controlled for a sufficient period of time to show that there is little likelihood that the illness or the depression will cause further misconduct or danger to the public.
3. Defendant is taxed with the costs in this matter as assessed by the Secretary.

Signed by the undersigned Chairman with the full knowledge and consent of the other members of the hearing committee this the 30th day of April, 1990.

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John B. McMillan, Chairman

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Defendant

FINDINGS OF FACT
AND
CONCLUSIONS OF LAW

This matter coming on to be heard and being heard on April 20, 1990 by a hearing committee of the Disciplinary Hearing Commission composed of John B. McMillan, Chairman, James E. Ferguson, II and Emily W. Turner; with A. Root Edmonson representing the North Carolina State Bar and William O. Warner not appearing; and based upon the admissions of the Defendant deemed from the default entered by the Secretary on April 2, 1990 due to defendant's failure to file an answer or other pleading in this matter, the hearing committee finds the following:

1. The Plaintiff, the North Carolina 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. The Defendant, William O. Warner, was admitted to the North Carolina State Bar on April 16, 1951, 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 all of the periods referred to herein, the Defendant was actively engaged in the practice of law in the State of North Carolina and maintained a law office in the City of Rocky Mount, Edgecombe & Nash County, North Carolina.
4. On or about December 18, 1983, Larry Jones was injured in an automobile accident while a guest passenger in a vehicle driven by Larry Alston which was struck by a vehicle driven by Richard Battle. Each of the automobiles involved in the accident were covered by liability and medical payments insurance.
5. In about March or April, 1984, Alberta Jones, mother of Larry Jones, an incompetent adult, employed Defendant to represent their interests in seeking recovery for the damages to Larry Jones as a result of the injuries suffered in the automobile accident and recovery of the medical payments made by Alberta Jones.

6. After Defendant had been representing the Joneses for approximately two years without communicating with them, Alberta Jones began making regular inquiries of Defendant as to the status of the matter.
7. Defendant continued to ensure Alberta Jones that he was working on her case and that things were proceeding well even though he was taking no action on behalf of either of his clients.
8. In December, 1986, prior to the statute of limitations running on the Joneses claims, Defendant assured Alberta Jones that a complaint would be filed in the matter.
9. Defendant failed to file a complaint on behalf of either of the Joneses prior to the statute of limitations barring their claims in December, 1986.
10. Subsequent to the claims being barred, Defendant continued to represent to Alberta Jones that their claims were proceeding toward resolution.
11. Defendant continued to misrepresent the status of the claims until he was discharged in approximately March, 1988.

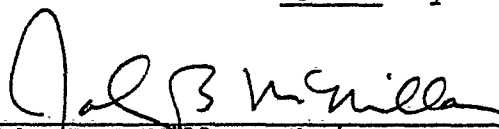
Based upon the findings of fact set out above, the hearing committee makes the following conclusions of law:

Defendant's actions, as set forth above, constitute grounds for discipline pursuant to N. C. Gen. Stat. Section 84-28(b) (2) in that Defendant violated the Rules of Professional Conduct as follows:

- a) By failing to take reasonable steps to resolve the claims of Larry Jones and his mother, Alberta Jones, including filing a complaint on their behalf prior to the statute of limitations running on their claims, Defendant failed to act with reasonable diligence and promptness in representing the client in violation of Rule 6(B) (3), failed to seek the lawful objectives of his clients through reasonable available means in violation of Rule 7.1(A) (1), failed to carry out a contract of employment entered into with a client for professional services in violation of Rule 7.1(A) (2), and prejudiced or damaged his clients during the course of the professional relationship in violation of Rule 7.1(A) (3).
- b) By misrepresenting to Alberta Jones the status of her and her son's claims, both before and after the running of the statute of limitations, Defendant engaged in conduct involving dishonesty, fraud, deceit and misrepresentation in violation of Rule 1.2(C), and knowingly made false statements of law or fact in violation of Rule 7.2(A) (4).

Signed by the undersigned Chairman with the full knowledge and consent of the other members of the hearing committee this the 30th day of April, 1990.

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John B. McMillan, Chairman