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NORTH CAROLINA

WAKE COUNTY

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
96G0132(IV)

IN THE MATTER OF

J. MICHAEL EDNEY,
ATTORNEY AT LAW

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REPRIMAND

On April 3, 1997, the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by Michael A. Parker, Sr.

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 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 Michael A. Parker on several sex offense criminal charges, for which he was convicted on February 4, 1994. The trial court then appointed you to represent Mr. Parker on appeal. After you were court-appointed to represent Parker on appeal, you agreed to accept a fee of \$15,000 for the appellate representation and collected \$3,500 of that fee from Parker's mother. You did represent him before the Court of Appeals.

After the Court of Appeals found no error and upheld Parker's convictions, you advised him by letter that you were preparing a petition to the Supreme Court. You failed to file the petition. Although you claim that you subsequently told Parker that he would be better off

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filing a motion for appropriate relief rather than the petition, there is no evidence to support your assertion nor any indication that you filed that motion. To the contrary, your fee records indicate no entries after the letter sent to Parker indicating that you were preparing a Supreme Court petition.

Additionally, you did not notify the trial judge that you had accepted a fee to represent Parker until after the current grievance was filed against you and counsel for the Bar contacted the trial judge. Further, you never sought to be released from your obligations as appointed counsel for Parker. Finally, you failed to respond to at least three written requests for information from the State Bar regarding this grievance.

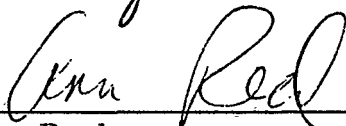
Your conduct violated several Rules of Professional Conduct. First, in failing to file the petition for appeal with the Supreme Court, you did not act with reasonable diligence in representing your client, in violation of Rule 6(b)(3). Second, by failing to inform Parker that you recommended that he file a motion for appropriate relief rather than a Supreme Court petition, you did not explain the matter to the extent reasonably necessary to permit him to make an informed decision regarding the representation, in violation of Rule 6(b)(2). Third, by accepting money for representing Parker without seeking to be removed as appointed counsel and be privately retained, you collected an "illegal fee," in violation of Rule 2.6(a), RPC 52 and 27 NCAC 1D .0406(f). Fourth, by knowingly failing to respond to requests from the State Bar for information regarding this grievance, you violated Rule 1.1(b).

In deciding to impose a reprimand, the committee considered as a mitigating circumstance the complimentary remarks of Judge Guice regarding your representation of Parker at trial and Judge Guice's failure to sanction you for not informing him earlier of the privately accepted fees, in granting your motion for attorney's fees.

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 16th day of May, 1997.



Ann Reed
Chairman, Grievance Committee
The North Carolina State Bar