

NORTH CAROLINA
GUILFORD COUNTY

NORTH CAROLINA BOARD
OF
CHIROPRACTIC EXAMINERS

IN THE MATTER OF:)
RUSSELL A. COBB, JR., D.C.)
Respondent.)

DECISION

THIS MATTER coming on to be heard before the Board of Examiners at its regular meeting on June 22, 1989, in Greensboro, North Carolina; and after due consideration of the evidence of record and the arguments of counsel, the Board makes the following:

FINDINGS OF FACT

1. The following members of the Board were present at the hearing: Dr. William Carlisle, presiding, Dr. John Tierney, Dr. Faye Eagles, Dr. Robert Vaughn and Dr. Dennis Cronin. Dr. Cronin disqualified himself prior to the presentation of evidence and did not participate in the decision rendered herein. The respondent was present and represented by counsel.
2. At the time of the events complained of, the respondent, Dr. Russell A. Cobb, Jr., was a citizen and resident of Guilford County, North Carolina, and was a licensed chiropractor maintaining an office and clinic in Greensboro, North Carolina.

3. This matter comes before the Board upon a formal complaint filed on October 13, 1988, by then-Secretary Dr. Darrell A. Trull. The complaint alleges that Dr. Cobb violated G.S. 90-154 (b)(2) by having been convicted of a felony or a crime involving moral turpitude.
4. Dr. Cobb was served with notice of the complaint by certified letter dated October 18, 1988.
5. On May 29, 1989, Dr. Cobb filed with the Board's attorney a written waiver of his right to a preliminary hearing and a stipulation that probable cause did exist upon which to refer the complaint to the full Board.
6. On May 29, 1989, Dr. Cobb tendered to the Board's attorney a written plea of guilty to the violation alleged in the complaint.
7. On October 3, 1988, in case no. CR-88-139-01-G, the United States Attorney for the Middle District of North Carolina charged Dr. Cobb with three violations of Title 18, United States Code, Section 1343, wire fraud.
8. On October 3, 1988, Dr. Cobb entered into a plea agreement with the United States Attorney whereby he pleaded guilty to three violations of Title 18, United States Code, Section 1343.
9. On May 23, 1989, Dr. Cobb appeared before the Hon. Hiram H. Ward, Judge of the United States District Court for the Middle

District of North Carolina, and was sentenced pursuant to his earlier plea. A copy of Judge Ward's Judgment is attached to this decision and incorporated by reference.

10. Title 18, United States Code, Section 1343 provides that whoever causes sounds to be transmitted by "wire" (i.e., telephone) in interstate commerce to further a scheme to obtain money by false pretenses shall be fined not more than \$1,000 or imprisoned not more than five years, or both.
11. The criminal conduct which resulted in Dr. Cobbs' convictions under Section 1343 consisted of allowing a co-conspirator to misrepresent to various commercial lenders that Dr. Cobb wished to finance the leasing of new clinic equipment when in fact the equipment supposedly to be leased was already owned by Dr. Cobb. Loan proceeds from a series of fraudulent leases were divided between Dr. Cobb and his co-conspirator.
12. Dr. Cobb's participation in the aforesaid scheme appears to have been confined to placing telephone calls to his co-conspirator, executing such leases, loan applications and related paperwork as were necessary to further the scheme and receiving a part of the funds so obtained. The scheme was masterminded by the co-conspirator, David Hargas, of Atlanta, Georgia; and it was Hargas, not Cobb, who made direct misrepresentations to lenders.
13. The scheme was in place from February 1985 until August 1987. The amount of money generated by the scheme was estimated by an F.B.I. investigator to be approximately six million dollars

and by a representative of the Bankruptcy Court to be as high as ten million dollars.

14. None of Dr. Cobb's patients were victims of his illegal conduct, and no monies paid to Dr. Cobb by patients or their insurers was fraudulently obtained or misappropriated by Dr. Cobb.
15. The primary use to which Dr. Cobb put his share of the scheme's proceeds was the servicing of debts incurred as a result of his acquisition of additional chiropractic clinics. Beginning in 1984, he started buying clinics in several states and employing the former owners as salaried chiropractors. Few, if any, of these clinics were financially self-supporting, and Dr. Cobb was forced to seek protection under Chapter 11 of the United States Bankruptcy Code on February 8, 1988.
16. At present, the only one of Dr. Cobb's clinics which remains in operation is his original clinic in Greensboro, North Carolina. Except for periods of hospitalization, Dr. Cobb has continuously treated patients at this facility. Because of the intervention of the Bankruptcy Court, Dr. Cobb does not participate in the management of this clinic. A court-appointed trustee reporting to the Judge of the Bankruptcy Court has authority for all administrative decisions. Dr. Cobb's wife, Maria Cobb, is now business manager of the clinic and in charge of day-to-day operation.

17. Dr. Cobb is presently an employee of the Cobb clinic. His salary is set by the Judge of the Bankruptcy Court upon the recommendation of his trustee.
18. Dr. Cobb suffers from a form of mental illness known as a bi-polar disorder or manic-depressive condition. The onset of this illness may have occurred as early as 1985, but Dr. Cobb was unequivocally symptomatic by 1986. During that time his wife sought psychological counseling for him and herself because she perceived changes in his personality and value system.
19. By late 1987, Dr. Cobb's illness had worsened to the point that his chiropractic practice was affected. By February 1988 he was depressed and suicidal. He was admitted to a private mental hospital in Greensboro and began treatment with Dr. Raouf Badawi, M.D., a psychiatrist.
20. In March 1988, Dr. Cobb was released. However in June 1988 he was ordered by the Judge of the U.S. District Court to be committed to the John Ulmstead Hospital at Butner, North Carolina, for observation, diagnoses and treatment.
21. On or about August 20, 1988, Dr. Cobb was discharged from the John Ulmstead Hospital. A psychologist and psychiatrist employed by the United States confirmed Dr. Badawi's diagnosis of bi-polar disorder.
22. Dr. Cobb's mental condition was treated with lithium. His condition responded, and his doctor certified him able to resume the practice of chiropractic on August 29, 1988.

23. On September 15, 1988, this Board held a hearing in Greensboro, North Carolina, and determined that Dr. Cobb was competent to treat patients. However, he was required to report to the Board on a monthly basis as to his mental state.
24. Dr. Cobb continues to take lithium in therapeutic dosages, and it will be necessary for him to do so indefinitely. However, due to lithium's cumulative side effects, it is anticipated that Dr. Cobb will temporarily discontinue taking lithium from time to time under the guidance of his treating psychiatrist. During these interludes he may be vulnerable to relapse.
25. Dr. Cobb was licensed to practice chiropractic in North Carolina in October, 1976. Since receiving his license, he has treated approximately 12,000 patients. The Board of Examiners has received no complaints against Dr. Cobb from any of his patients.

Based on the foregoing Findings of Fact, the Board of Chiropractic Examiners makes the following:

CONCLUSIONS OF LAW

1. This Board is duly constituted and has jurisdiction of subject matter. The respondent has been given notice as required by law, and this complaint is properly before the Board for adjudication.
2. A conviction of violating Title 18, United States Code, Section 1343 constitutes "conviction of a felony" within the meaning of G.S. 90-154(b)(2).

3. A Doctor of Chiropractic has an affirmative duty to be honest in all transactions, including those which do not directly involve the delivery of services to patients.
4. Suffering from a bi-polar disorder does not necessarily disqualify a chiropractor from practicing his profession so long as he submits to appropriate medical treatment for the duration of his illness.

Based on the foregoing Findings of Fact and Conclusions of Law, the North Carolina Board of Chiropractic Examiners enters the following:

FINAL AGENCY DECISION

IT IS ADJUDGED that upon his plea of guilty, Russell A. Cobb, Jr. is found guilty of violating G.S. 90-154(b)(2) by having been convicted of three counts of wire fraud under Title 18, United States Code, Section 1343.

WHEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that:

1. The respondent's license to practice chiropractic in North Carolina be suspended for five years;
2. The disciplinary sanction imposed in the preceeding section is suspended for a period of five years, and the respondent is placed on probationary status upon the following terms and conditions:
 - a. The respondent shall be subject to a period of active suspension for ninety (90) days, to commence ten days after service of this decision. During said period of active suspension, the respondent shall not consult with,

examine, diagnose or render treatment of any sort to any patient. It shall be permissible for the Cobb Clinic to continue doing business under the same name, but the respondent shall not personally go about the premises of the Cobb Clinic at any time patients are being seen.

b. Upon completion of his active suspension, and for the remaining four and three-quarter years of probation, the respondent shall be permitted to practice chiropractic but shall report to the Board at regular intervals concerning the state of his mental health, as follows:

(1) Said reports shall be in writing and shall include a statement from his attending psychiatrist confirming the respondent's participation in treatment, the methods of treatment (including drug or lithium usage), and his response to treatment.

(2) Said reports shall be submitted on a quarterly basis during the first year of probation and on a semi-annual basis thereafter.

(3) At such times as his attending psychiatrist causes the respondent to discontinue taking lithium so as to minimize side effects, the aforesaid reports shall be filed on a weekly basis.

c. The respondent shall promptly make available to the Board copies of all business records, ledgers and accounts of the Cobb Clinic upon request.

- d. The respondent is relieved of the reporting obligations imposed by the Decision of September 15, 1988, said obligations being superceded by the reporting requirements set forth herein.
- e. In addition to the above-stated conditions, the respondent shall comply with all conditions of probation imposed by the United States District Court in its Judgment of May 23, 1989.

This is the 29th day of June, 1989.

North Carolina Board of Chiropractic Examiners

by: William N. Carlisle, D.C.
-President

attest:

John T. Tierney, D.C.
John T. Tierney, D.C.
Secretary

ENTERED ON DOCKET

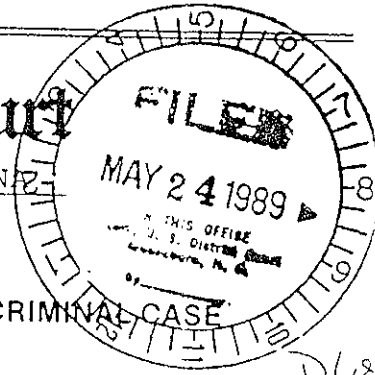
R. 55 (a)

United States District Court

MAY 24 1989

MIDDLE

DISTRICT OF NORTH CAROLINA



BY: CU
UNITED STATES OF AMERICA

JUDGMENT IN A CRIMINAL CASE

Case Number: CR-88-139-01-G

V.
RUSSELL A. COBB, JR.
1802 West Market Street
Greensboro, NC 27403

Social Security No. 244-62-5534

(Name and Address of Defendant)

Douglas Harris & John S. Iorio
Attorney for Defendant

THE DEFENDANT ENTERED A PLEA OF:

guilty nolo contendere] as to count(s) 1, 2 & 3 of an Information. and
 not guilty as to count(s) _____

THERE WAS A:

finding verdict] of guilty as to count(s) 1, 2 & 3 of an Information _____

THERE WAS A:

finding verdict] of not guilty as to count(s) _____

judgment of acquittal as to count(s) _____

The defendant is acquitted and discharged as to this/these count(s).

THE DEFENDANT IS CONVICTED OF THE OFFENSE(S) OF: knowingly transmitting in interstate commerce by means of a wire communication, a telephone communication; in violation of 18 USC § 1343, as charged in Counts 1, 2 & 3 of an Information

IT IS THE JUDGMENT OF THIS COURT THAT: counts 1, 2 & 3 are consolidated for entry of judgment. IT IS FURTHER ORDERED that the defendant is committed to the custody of the Attorney General or his authorized representative for a period of five (5) years. Pursuant to the provisions of 18 USC § 3651, the defendant be confined in a community treatment center for a period of six (6) months, and the execution of the remainder of the sentence of imprisonment be suspended and the defendant placed on probation for a period of five (5) years from the date of completion of the community treatment center sentence. Special conditions of probation are: (1) that the defendant continue to receive psychiatric treatment and therapy from his private psychiatrist until discharged by his psychiatrist and provide proof of such treatment to the United States Probation Officer; (2) that the defendant conscientiously follow the bankruptcy payback plan at such time as the plan is formulated and ordered by the United States Bankruptcy Court; (3) that the defendant perform 100 hours of community service during the probationary period under the direction of the U.S. Probation Officer. The defendant shall report to the community treatment center at the direction of the U.S. Probation Officer.

In addition to any conditions of probation imposed above, IT IS ORDERED that the conditions of probation set out on the reverse of this judgment are imposed.

CONDITIONS OF PROBATION

Where probation has been ordered the defendant shall:

- (1) refrain from violation of any law (federal, state, and local) and get in touch immediately with your probation officer if arrested or questioned by a law-enforcement officer;
- (2) associate only with law-abiding persons and maintain reasonable hours;
- (3) work regularly at a lawful occupation and support your legal dependents, if any, to the best of your ability. (When out of work notify your probation officer at once, and consult him prior to job changes);
- (4) not leave the judicial district without permission of the probation officer;
- (5) notify your probation officer immediately of any changes in your place of residence;
- (6) follow the probation officer's instructions and report as directed.

The court may change the conditions of probation, reduce or extend the period of probation, and at any time during the probation period or within the maximum probation period of 5 years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period.

IT IS FURTHER ORDERED that the defendant shall pay a total special assessment of \$ 150.00 pursuant to Title 18, U.S.C. Section 3013 for count(s) 1, 2 & 3 (\$50.00 on each count), as follows:

IT IS FURTHER ORDERED THAT counts _____ are DISMISSED on the motion of the United States.

IT IS FURTHER ORDERED that the defendant shall pay to the United States attorney for this district any amount imposed as a fine, restitution or special assessment. The defendant shall pay to the clerk of the court any amount imposed as a cost of prosecution. Until all fines, restitution, special assessments and costs are fully paid, the defendant shall immediately notify the United States attorney for this district of any change in name and address.

IT IS FURTHER ORDERED that the clerk of the court deliver a certified copy of this judgment to the United States marshal of this district.

The Court orders commitment to the custody of the Attorney General and recommends:

May 23, 1989

Date of Imposition of Sentence

Hiram H. Ward

Signature of Judicial Officer

Hiram H. Ward, U. S. District Judge

Name and Title of Judicial Officer

May 24, 1989

Date

A. T. ...

Teste:

J. P. Creekmore, Clerk

Carol Hayes
Clerk

RETURN

I have executed this Judgment as follows:

Defendant delivered on _____ to _____ at _____ Date

_____, the institution designated by the Attorney General, with a certified copy of this Judgment in a Criminal Case.

United States Marshal

By _____ Deputy Marshal