

FILED

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IN THE SUPREME COURT OF FLORIDA

JUL 18 1988

THE FLORIDA BAR,
Complainant,

v.

W. FURMAN BETTS,
Respondent.

CLERK, SUPREME COURT

By _____
Deputy Clerk

Case No. 64,979

[TFB Case No. 82-03,087 (06A)]

COMPLAINANT'S REPLY BRIEF

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SYMBOLS AND REFERENCES

In this Brief, the appellant, The Florida Bar, will be referred to as "The Florida Bar"; the appellee, Mr. Betts, will be referred to as the respondent; "R" will denote the record and "RR" the Report of Referee.

STATEMENT OF FACTS AND CASE

The Florida Bar reiterates the Statement of Facts and Case stated in its Initial Brief and accepted by the Complainant, with exceptions as to the nature of the negotiations regarding the filing of the Bar's Amended Complaint. The Florida Bar does not challenge the facts submitted by the respondent regarding the amendment of the Complaint.

ARGUMENT

POINT I

PUBLIC DISCIPLINE IN THIS CASE IS NECESSARY DUE TO BOTH THE NATURE OF THE WRONGDOING AND THE RULES GOVERNING ATTORNEY DISCIPLINE.

In Respondent's Answer Brief, respondent argues that the referee's recommendation of a private reprimand should be accepted despite the changes in the rules effective in 1987 making private reprimands available only in cases of minor misconduct. Respondent argues that otherwise the respondent will be penalized for the Referee's lack of promptness in filing the report. However, it should be noted that respondent has failed to indicate that he took any steps to avoid this occurrence. Respondent could have made the appropriate motions to the referee to seek action prior to January 1, 1987, the effective date of the new rules, but failed to.

Respondent could also have petitioned for confidentiality in the case in order to avoid the case becoming public. Respondent failed to do either. Therefore, respondent should be precluded from claiming prejudice in an effort to convince this court to deviate from stated procedures requiring public discipline. The fact that this case is now public is itself a convincing argument in favor of public discipline. The public has a right to know of the discipline in a case where they are already aware of a

pending discipline action. Certainly, protection of a favorable image of the legal profession is an important goal of attorney discipline, The Florida Bar v. Larkin, 447 So.2d 1340, 1341 (Fla. 1984).

Public discipline is further warranted by the nature of respondent's wrongdoing. Although respondent in the Answer Brief argues that respondent's actions in taking his client's hand and placing his signature upon a will where the client was clearly without testamentary capacity was motivated by good intentions, this argument has little merit. Any attorney with respondent's considerable years of experience must be aware of an attorney's duty to preserve the sanctity of testamentary proceedings. Respondent could have had no doubt that he was creating an improper legal document and thus subjecting his client's probate proceedings to challenge when he acted.

Nothing less than public discipline is appropriate in this case.

CONCLUSION

WHEREFORE, The Florida Bar respectfully requests this Court accept the Referee's basic findings of fact but reject the recommended discipline of private reprimand and impose nothing less than a public reprimand and assess the payment of costs of this proceedings, currently totalling \$828.50.

Respectfully submitted,


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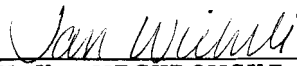
BY:



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original and seven (7) copies of the foregoing Complainant's Reply Brief have been furnished by regular U.S. mail to the Supreme Court of Florida, Supreme Court Building, Tallahassee, Florida. 32399-1927; a copy of the foregoing has been furnished by regular U.S. mail to Counsel for respondent, Richard T. Earle, Jr., at 150 Second Avenue North, Suite 1200, St. Petersburg, Florida 33704; and a copy of the foregoing has been furnished by regular U.S. mail to Staff Counsel, The Florida Bar, 650 Apalachee Parkway, Tallahassee, Florida, 32399-2300, this 15th day of July, 1988.



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