

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

The Florida Bar,
Complainant,

vs.

JOHN L. GRAHAM, JR.,
Respondent.

CONFIDENTIAL

CASE NO. 66,566
(09B84C17)
(09B84C51)
(09B84C52)
(09B84C81)

FILED

SID J. WHITE

JUL 22 1985

CLERK, SUPREME COURT

Chief Deputy Clerk

REPORT OF REFEREE

- I. Summary of Proceedings: Pursuant to the undersigned being duly appointed as referee to conduct disciplinary proceedings herein according to Article XI of the Integration Rule of The Florida Bar, a hearing was held on April 15, 1985. The Pleadings, Notice, Transcript and Exhibits, all of which are forwarded to The Supreme Court of Florida with this report, constitute the record in this case.

The following attorneys appeared as counsel for the parties:

For The Florida Bar: JOHN B. ROOT, JR.

For The Respondent: FREDERICK J. WARD

- II: Findings of Fact as to Each Item of Misconduct of which the Respondent is charged: After considering all the pleadings, the Conditional Guilty Plea for Consent Judgment, and the testimony of the Respondent, I find, as to Counts I, II, III, IV, V, VI, VII, VIII, IX & X as follows:

- A. That the Respondent at the time the Conditional Guilty Plea for Consent Judgment was alert, able, and intelligent.
- B. That the Respondent had the advice and benefit of Frederick J. Ward, Esq. concerning his decision to enter the Conditional Guilty Plea for Consent Judgment and at the time said Plea was tendered to this referee.
- C. That the Conditional Guilty Plea for Consent Judgment was freely and voluntarily made by the Respondent with full knowledge of its meaning and effect.
- D. That the Respondent had mental and emotional problems during the years 1982, 1983, and 1984, and at times during this period was treated by two psychiatrists and one clinical social worker.
- E. That the Respondent is not presently physically or emotionally able to engage in the practice of law.

- III. Recommendations as to whether or not the Respondent should be found guilty: As to each count of the complaint I make the following recommendations as to guilt or innocence:

As to Count I

I recommend that the Respondent be found guilty and specifically that he be found guilty of violating the following Integration Rules of The Florida Bar and Disciplinary Rules of the Code of Professional Responsibility, to wit:

Integration Rules of the Florida Bar 11.02(3) and 11.02(4)

Disciplinary Rules of the Code of Professional Responsibility 1-102(A)(4), 1-102(A)(6), 9-102, and 9-102(B)(3)

As to Count II

I recommend that the Respondent be found guilty and specifically that he be found guilty of violating the following Integration Rules of The Florida Bar and Disciplinary Rules of the Code of Professional Responsibility, to wit:

Integration Rules of the Florida Bar 11.02(4)

Disciplinary Rules of the Code of Professional Responsibility 1-102(A)(4), 1-102(A)(6), 9-102(A), and 9-102(B)(4)

As to Count III

I recommend that the Respondent be found guilty and specifically that he be found guilty of violating the following Disciplinary Rules of the Code of Professional Responsibility, to wit:

Disciplinary Rules of the Code of Professional Responsibility 1-102(A)(4), 1-102(A)(5), 1-102(A)(6), 9-102(A), 9-102(B)(3), and 9-102(B)(4)

As to Count IV

I recommend that the Respondent be found guilty and specifically that he be found guilty of violating the following Integration Rules of The Florida Bar and Disciplinary Rules of the Code of Professional Responsibility, to wit:

Integration Rule of the Florida Bar 11.02(4)

Disciplinary Rules of the Code of Professional Responsibility 1-102(A)(4) and 1-102(A)(6)

As to Count V

I recommend that the Respondent be found guilty and specifically that he be found guilty of violating the following Disciplinary Rules of the Code of Professional Responsibility, to wit:

Disciplinary Rules of the Code of Professional Responsibility 1-102(A)(4), 1-102(A)(5), 1-102(A)(6), and 9-102(B)

As to Count VI

I recommend that the Respondent be found guilty and specifically that he be found guilty of violating the following Integration Rules of The Florida Bar and Disciplinary Rules of the Code of Professional Responsibility, to wit:

Integration Rules of the Florida Bar 11.02(3) and 11.02(4)

Disciplinary Rules of the Code of Professional Responsibility 1-102(A)(6) and 9-102(B)(4)

As to Count VII

I recommend that the Respondent be found guilty and specifically that he be found guilty of violating the following Integration Rules of The Florida Bar and Disciplinary Rules of the Code of Professional Responsibility, to wit:

Integration Rules of the Florida Bar 11.02(4)

Disciplinary Rules of the Code of Professional Responsibility 1-102(A)(6), 6-101(A)(3), 7-101(A)(1), 7-101(A)(2), 9-102(B)(3), and 9-103(B)(4)

As to Count VIII

I recommend that the Respondent be found guilty and specifically that he be found guilty of violating the following Integration Rules of The Florida Bar and Disciplinary Rules of the Code of Professional Responsibility, to wit:

Integration Rules of the Florida Bar 11.02(3) and 11.02(4)

Disciplinary Rules of the Code of Professional Responsibility 1-102(A)(4), 1-102(A)(6), 6-101(A)(3), 7-101(A)(2), 9-102(B)(3) and 9-102(B)(4)

As to Count IX

I recommend that the Respondent be found guilty and specifically that he be found guilty of violating the following Disciplinary Rules of the Code of Professional Responsibility, to wit:

Disciplinary Rules of the Code of Professional Responsibility 1-102(A)(4), 1-102(A)(6), 6-101(A)(3), and 7-101(A)(2)

As to Count X

I recommend that the Respondent be found guilty and specifically that he be found guilty of violating the following Integration Rules of The Florida Bar and Disciplinary Rules of the Code of Professional Responsibility, to wit:

Integration Rules of The Florida Bar 11.02(3) and 11.02(4)

Disciplinary Rules of the Code of Professional Responsibility 1-102(A)(4), 1-102(A)(6), and 9-102(B)(3)

- IV. Recommendation as to disciplinary measures to be applied: Pursuant to the Conditional Guilty Plea for Consent Judgment, I recommend that the Respondent be suspended for a fixed period of thirty (30) months with proof of rehabilitation to be required prior to reinstatement as provided for in Integration Rules of The Florida Bar, Article XI, Rule 11.10(4). Further the Respondent shall make restitution, including interest at a legal rate, to all persons who have lost money which was, or should properly have been, in any trust account of the Respondent. The Respondent shall also pay costs incurred by The Florida Bar as specified in Paragraph VI of this report.

V. Personal History and Past Disciplinary Record: After a finding of guilty and prior to recommending discipline pursuant to Rule 11.06(9)(a)(4), I considered the following personal history and prior disciplinary record of the respondent, to wit:

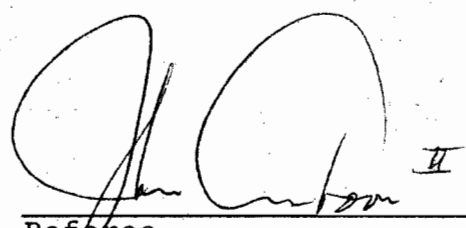
- A. AGE: 45 (dob 5/19/40)
- B. DATE ADMITTED TO BAR: 1967
- C. PRIOR DISCIPLINARY CONVICTIONS AND DISCIPLINARY MEASURES IMPOSED THEREIN: None
- D. OTHER PERSONAL DATA: The Respondent received a baccalaureate degree from the University of Georgia in 1964, and juris doctor degree from Stetson College of Law in 1967. Since his admission to the Florida Bar, and until his suspension July 10, 1984, the Respondent has practiced law in the Orlando, Florida area.
- E. The Respondent was married August 1, 1964. He was separated from his wife October 3, 1982, and his marriage was dissolved in July of 1983. The Respondent has two children, ages 15 and 13 years. The Respondent's marital problems contributed to his emotional and mental difficulties.

VI. Statement of costs and manner in which cost should be taxed: I find the following costs were reasonably incurred by The Florida Bar.

A. Grievance Committee Level Costs	
1. Administrative Costs	\$ 150.00
2. Barnett Bank-Photocopies	44.60
B. Referee Level Costs	
1. Administrative Costs	150.00
2. Transcript Costs 4/15/85	83.85
C. Miscellaneous Costs	
1. Staff Investigator Expenses	91.40
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TOTAL ITEMIZED COSTS:	\$ 519.85

It is apparent that other costs have or may be incurred. It is recommended that all such costs and expenses together with the foregoing itemized costs be charged to the Respondent, and that interest at the statutory rate shall accrue and be payable beginning 30 days after the judgment in this case becomes final unless a waiver is granted by the Board of Governors of The Florida Bar.

Dated this 18th day of July, 1985.


Referee

Copies furnished to:
Bar Counsel - John B. Root, Jr., The Florida Bar, Orlando, Florida
Respondent's Counsel - Frederick J. Ward, Orlando, Florida
Staff Counsel - John T. Berry, The Florida Bar, Tallahassee, Florida

