

IN THE SUPREME COURT OF FLORIDA

BEFORE A REFEREE

THE FLORIDA BAR,
Complainant,
vs.
CHARLES M. MIMS,
Respondent.

CONFIDENTIAL

Case No. 66,601

1986
CLERK OF SUPREME COURT
Deputy Clerk

REPORT OF REFEREE

I. Summary of Proceedings. Pursuant to the undersigned's being duly appointed as referee to conduct the disciplinary proceedings herein according to Article XI of the Integration Rule of The Florida Bar, a hearing was held on Friday, August 1, 1986, in Chambers, Room 400, Leon County Courthouse, Tallahassee, Leon County, Florida. The pleadings, notices, transcript, exhibits and memoranda, all of which are forwarded to The Supreme Court of Florida with the report, constitute the record in this case.

The hearing was scheduled to commence at 9:00 a.m. on August 1, 1986, but was delayed until 10:15 a.m. due to Respondent's not being present. (Tr., final hearing, p. 25) Respondent did not appear at the final hearing until 10:45 a.m., after Mr. O'Gwen King had completed his testimony as a witness for The Florida Bar. (Tr., final hearing, pp. 25-26)

The following attorneys appeared as counsel for the parties.

For The Florida Bar appeared SUSAN V. BLOEMENDAAL.

For the Respondent appeared CHARLES M. MIMS, In Proper Person.

II. Findings of fact as to each item of misconduct of which the Respondent is charged. After considering all the pleadings and evidence before me, pertinent portions of which

are commented on below, I find as follows:

(A) That a review of the exhibits and the testimony presented reveals that The Florida Bar has failed to demonstrate that Respondent is guilty of violating DR5-105(B), DR5-105(C), DR5-104(A) or DR1-102(A)(6) as alleged in Count I of the Complaint. Rather, the evidence presented demonstrates that the actions of Respondent, in his capacity as trustee, were consistent with the documents creating the relationship of a trustee between himself, Thomas and Greta Gurr, Mae Mims, James D. Willis, and Lyman C. Jordan.

Further, his continued representation of Thomas and Greta Gurr did not involve the pre-Columbian art exhibit which was the subject of the trust, and thus no conflict was created between the Gurrs and the investors, Mae Mims, James D. Willis, and Lyman C. Jordan.

(B) Respondent does not contest the allegations contained in Count II of the Complaint that he violated DR6-101(A)(3), DR7-106(A) and DR7-106(C)(5). (Tr., final hearing, p. 26)

(C) A review of the evidence presented reveals that Respondent failed to comply with Court orders, failed to appear at a scheduled pre-trial conference and has admitted to neglecting a case before Judge William Stafford.

III. Recommendation as to whether or not the Respondent should be found guilty. I recommend that the Respondent be found not guilty of the allegations contained in Count I of the Complaint.

I further recommend that the Respondent be found guilty of the allegations contained in Count II of the Complaint, and specifically that he be found guilty of violating the following Disciplinary Rules of the Code of Professional Responsibility, to-wit: DR1-102(A)(1) and (5), DR6-101(A)(3), DR7-106(A) and DR7-106(C)(5).

IV. Recommendation as to disciplinary measures to be applied. I recommend that the Respondent be suspended from the practice of law in Florida for a period of one (1) year and thereafter until he shall prove his rehabilitation as provided in Rule 11.10(4). I further recommend that Respondent be required to satisfactorily pass the ethics portion of The Florida Bar examination prior to the restoration of his privileges of membership in The Florida Bar.

V. Personal history and past disciplinary record. After finding Respondent guilty of the allegations contained in Count II of the Complaint and prior to recommending discipline to be recommended pursuant to Rule 11.06(9)(a)(4), I have considered the following personal history and prior disciplinary record of the Respondent, to-wit:

Age: ?

Date admitted to Bar in Florida: 1972

Prior disciplinary convictions and measures imposed therein:

(A) Private reprimand in Case NO. 01-81N87, wherein Respondent was reprimanded for violation of DR6-101(A)(3), in connection with his handling of a probate case.

(B) Respondent is temporarily suspended and has been temporarily suspended from the practice of law since December, 1985, for a trust account violation. (Tr., final hearing, p. 118)

Other personal data: Respondent has admitted that he was neglectful in his handling of the case which resulted in the Order suspending him from the bar of the United States District Court For The Northern District of Florida entered on July 21, 1983, by The Honorable William Stafford, and has offered argument to mitigate his actions, but has in no way expressed remorse for his actions and feels that the appropriate disciplinary action is limited to a reprimand.

VI. Statement of costs and manner in which costs should be taxed. It is recommended that costs be taxed against Respondent in the amount of \$1,247.00, which include administrative costs, court reporter costs, and witness fees on the Grievance Committee level and the Referee level of these proceedings.

DATED this 2nd day of October, A.D., 1986.


WILLIAM L. GARY
Referee

copies furnished to:

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