

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,
Complainant,

Case No. 70,322

v.

(TFB No. 04B87N20)

WILLIAM A. MACGUIRE,
Respondent.

FILED
SID J. WHITE

SEP. 4 1987

CLERK, SUPREME COURT
By _____
Deputy Clerk

REPORT OF THE REFEREE

I. SUMMARY OF PROCEEDINGS

Pursuant to the undersigned being duly appointed as referee to conduct disciplinary proceedings herein according to Rule 3-7.5, Rules of Discipline, the following proceedings occurred:

On April 2, 1987, The Florida Bar filed its Complaint against Respondent and served its Request for Admissions on April 9, 1987. On May 11, 1987, Respondent served his Answer and Response to Request for Admissions on Bar Counsel. On May 18, 1987, the undersigned set a final hearing on this matter for June 12, 1987. On June 7, 1987, Respondent filed a Motion for Continuance and an Objection to Final Hearing. Respondent failed to appear at the time noticed for the Final Hearing. All of the aforementioned pleadings, attachments thereto, and exhibits received in evidence, and this report constitute the record in this case and are forwarded to the Supreme Court of Florida.

II. FINDINGS OF FACT

After carefully considering all pleading and the record herein, I find:

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Respondent was at all times mentioned in the Complaint, a member of The Florida Bar, subject to the jurisdiction and Disciplinary Rules of the Supreme Court of Florida.

Based upon Respondent's conduct in March 1985, Respondent was charged in a criminal information filed by the State Attorney's Office of the Second Judicial Circuit, Leon County, Florida with threatening then-Governor Bob Graham and the members of his immediate family. The information charged a violation of Section 838.021 and 836.10, Florida Statutes in Counts I and II of the criminal information. The threats were made on March 24, 1985 and March 28, 1985. (Bar's Exhibit 1 - criminal information)

On August 8, 1986, Respondent entered a nolo contendere plea to violating Count I under Florida Statute 838.021 (threat against a public official) a third degree felony, and Florida Statute 836.10 (written threats to kill), a second degree felony, in Circuit Court, Leon County, Florida. (Bar's Exhibit 2)

Based upon the foregoing pleas, Respondent was adjudicated guilty of the criminal offenses under Florida Statutes 838.021 and 836.10 and sentenced to serve five hundred and two (502) days in prison. In addition to the prison sentence, Respondent was also placed on probation for five (5) years. (Bar's Exhibit 2)

Respondent's threats against then Governor Graham and his family was in an attempt to induce the Governor to exert influence upon The Florida Bar regarding Respondent's previous suspension as a member of The Florida Bar.

III. RECOMMENDATIONS AS TO GUILT. Based upon the record herein it is found that Respondent's actions and conduct constitute a violation of the following Disciplinary Rules:

Article XI, Rule 11.02(3)(a), Integration Rule of The Florida Bar (any act by a lawyer contrary to honesty, justice, or good morals);

DR 1-102(A)(1) (a lawyer shall not violate a disciplinary rule);

DR 1-102(A)(3) (a lawyer shall not engage in illegal conduct involving moral turpitude);

DR 1-102(A)(6) (a lawyer shall not engage in any conduct that adversely reflects on one's fitness to practice law);

The findings of fact and guilt herein are based upon the felony convictions of Respondent which provide conclusive proof of the criminal offenses charged to Respondent. The Florida Bar v. Heller, 473 So.2d 1250 (Fla. 1985).

IV. RECOMMENDATION AS TO DISCIPLINARY MEASURES TO BE APPLIED

I recommend that Respondent be found guilty of misconduct justifying disciplinary measures, and that he be disciplined by:

A. Disbarment.

B. Payment of costs in these proceedings.

The above recommendation is made in light of the holdings in the following cases:

The Florida Bar v. Katz, 491 So.2d 1101 (Fla. 1986);

The Florida Bar v. Altman, 465 So.2d 514 (Fla. 1984);

The Florida Bar v. Jackman, 145 So.2d 482 (Fla. 1962)

The Florida Bar v. Cobourn, 368 So.2d 47 (Fla. 1979)

V. PERSONAL HISTORY AND PAST DISCIPLINARY RECORD

Prior to recommending discipline pursuant to article XI, Rule 11.06(9)(a)(4), I considered the following personal history of Respondent, to wit:

Age: 42

Date admitted to the Bar: February 26, 1975

Prior Discipline: Temporarily Suspended April 18, 1984 (TFB File No. NTS84005); Felony Suspended September 9, 1986 (TFB File No. NFC87001)

VI. STATEMENT OF COSTS AND MANNER IN WHICH COSTS SHOULD BE TAXED

I find the following costs were reasonably incurred by The Florida Bar:

A. Referee Level

1. Administrative Costs	\$150.00
2. Court Reporter's Fees	96.03
3. Bar Counsel Travel	<u>140.40</u>
TOTAL	\$386.43

It is recommended that such costs be charged to 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 2nd day of September, ~~1987~~ ¹⁹⁸¹ ~~1988~~.

Ellis T. Fernandez, Jr.
ELLIS T. FERNANDEZ, JR.
Circuit Judge/Referee

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original of the foregoing Report of Referee has been mailed to SID J. WHITE, Clerk of the Supreme Court of Florida, Supreme Court Building, Tallahassee, Florida 32301, and that confidential copies were mailed by regular U.S. Mail to JOHN T. BERRY, Staff Counsel, The Florida Bar, 600 Apalachee Parkway, Tallahassee, Florida 32301; JAMES N. WATSON, JR., Bar Counsel, The Florida Bar, 600 Apalachee Parkway, Tallahassee, Florida 32301; and WILLIAM A. MACGUIRE at his record Bar address of Post Office Box 854, Orange Virginia, 22960, this 3rd day of September, 1987. ~~1988~~)

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ELLIS T. FERNANDEZ, JR.
Circuit Judge/Referee