

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

FILED
NOV 2 1987

CLERK, SUPREME COURT
By _____
Deputy Clerk

THE FLORIDA BAR,
Complainant,

Case No. 70,803

v.

(TFB No. 02-87211)

JOSEPH H. O'DONNELL, JR.,
Respondent.

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 July 2, 1987, The Florida Bar filed its Complaint against Respondent. On July 22, 1987, Respondent filed his Answer to the Complaint. 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

A. Jurisdictional Statement. Respondent is, and at all times mentioned during this investigation was, a member of The Florida Bar, subject to the jurisdiction and Disciplinary Rules of the Supreme Court of Florida.

B. Narrative Summary Of Case.

Respondent, at all times mentioned herein, was a member of the Bar of the State of New Jersey.

On or about October 19, 1979, the District IV Ethics Committee of the Supreme Court of New Jersey filed a complaint against Respondent for being in violation of Rule 1:21-1(a), Rules of General Application of the Supreme Court of New Jersey.

Rule 1:21-1(a), Rules of General Application of the Supreme Court of New Jersey addresses the requirements of an attorney to practice law in New Jersey.

On or about January 20, 1982 the Disciplinary Review Board of the Supreme Court of New Jersey entered a recommendation to the Supreme Court of New Jersey that Respondent's license to practice law be revoked.

Based upon Respondent's lack of candor and misrepresentations to the New Jersey Disciplinary Board, the New Jersey Supreme Court suspended Respondent for six (6) months, effective January 12, 1983.

On or about January 18, 1985, Respondent applied for reinstatement to the Bar of New Jersey. As a result of such application a review was ordered by the Supreme Court of New Jersey.

Pursuant to the Supreme Court of New Jersey's request, the District IV Ethics Committee reviewed the application and made a recommendation to the New Jersey Supreme Court that Respondent's suspension be continued for an additional year.

The testimony before the District IV Ethics Committee revealed that during the period of suspension, Respondent had allowed a sign

showing Respondent as an attorney-at-law to remain in the window of his old office. Respondent took no action to remove this sign even after being notified.

Based upon the District Ethics Committee's report, the Supreme Court of New Jersey entered an order on June 17, 1986 continuing Respondent's suspension for a period of one year, effective May 19, 1986.

III. RECOMMENDATIONS AS TO GUILT. I recommend that Respondent be found guilty of violating the following Rules of the Code of Professional Responsibility:

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

1-102(A)(4) (a lawyer shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation); and

1-102(A)(6) (a lawyer shall not engage in any other conduct that adversely reflects on his fitness to practice law).

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. Ninety (90) day suspension from the practice of law in Florida.

B. Payment of costs in these proceedings.

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: 38

Date admitted to the Bar: December 14, 1979

Prior Discipline: None

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
TOTAL	\$150.00

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 30th day of October, 1987.



L. RALPH SMITH, JR.
Circuit Judge/Judicial Referee
Room 310, Leon County Courthouse
Tallahassee, Florida 32301
(904) 488-7063

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, ESQUIRE, Staff Counsel, The Florida Bar, 600 Apalachee Parkway, Tallahassee, Florida 32301; JAMES N. WATSON, JR., ESQUIRE, Bar Counsel, The Florida Bar, 600 Apalachee Parkway, Tallahassee, Florida 32301; and JOSEPH H. O'DONNELL, JR., ESQUIRE, Respondent, this 30th day of October, 1987.



L. RALPH SMITH
Circuit Judge/Referee