

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,

Complainant,

Case Nos. 70,934 and 71,179

v.

LARRY T. GRIGGS,

Respondent.

FILED

JAN 17 1988

CLERK OF THE COURT
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REPORT OF REFEREE

I. Summary of Proceedings: Pursuant to the undersigned being duly appointed as referee to conduct disciplinary proceedings herein according to the Integration Rule and the Rules Regulating The Florida Bar, a hearing was held on October 9, 1987. The pleadings, Notice, Orders, Transcripts 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 - David G. McGunegle
For the Respondent - Scott Tozian

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:

The respondent has tendered a Conditional Guilty Plea which is attached as Exhibit 1. After full consideration it has been accepted by the undersigned. He practiced law in Ocala, Florida at the time of these problems. The allegations to which he has tendered this plea are as follows:

Case No. 70,934
As to Count I

1. Respondent was retained in June, 1985, by [REDACTED] and [REDACTED] A [REDACTED] to represent them in a "lemon law" case. He informed his clients that a trial date had been set for December 14, 1986. He repeatedly assured them the case was progressing although little work had been done since he had composed many questions based on information elicited from the A [REDACTED] in September, 1986. Despite the respondent's assurances, Mr. A [REDACTED] became concerned over the number of delays and contacted Mr. Thomas Bond, Jr., a partner of Bond, Arnett, and Phelan where the respondent was employed. When contacted by Mr. Bond the respondent made assurances to him the case was progressing.

2. Thereafter the respondent notified his clients that Circuit Judge Raymond T. McNeal of the Fifth Judicial Circuit had granted the defendants a continuance and a new date had been set for March 5, 1987.

3. On March 4, 1987, the respondent informed his clients the trial date had again been postponed as the defendants had requested Circuit Judge McNeal to recuse himself and he had refused to do so. The defendants had appealed.

4. After several unsuccessful attempts to contact respondent, on March 18, 1987, Mrs. A [REDACTED] contacted Circuit Judge McNeal's secretary to inquire as to the status of the case. At that time she learned the complaint had not been filed until March 3, 1987.

5. A hearing was held on March 19, 1987, by Circuit Judge McNeal to look into the respondent's handling of the case. At that time the respondent admitted to misleading them as to its status. He also neglected the case during this time.

As to Count II

6. The respondent was retained on June 13, 1986, by Mr. and Mrs. K [REDACTED] to obtain a release from a mineral rights lien on their property. The respondent informed them he could clear the title by December, 1986.

7. In mid-December, the respondent informed his clients the case would be settled by January, 1987. He made similar promises in February and March, 1987.

8. In April, 1987, after many delays, the respondent informed his clients the case had been set for a final hearing on April 14, 1987. He later notified them the date had been changed on two more occasions.

9. Mrs. K [REDACTED] contacted Circuit Judge McNeal's secretary to confirm the last date given her by the respondent for the final hearing. She learned the date had been set by the respondent only minutes before. When she confronted him with this information, the respondent admitted to having lied to her about the previous court dates. Respondent also failed to have a guardian ad litem appointed for the heirs to the mineral rights until May 1, 1987, and the necessary legal notices were not printed in the newspaper until May 22, 1987.

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10. The respondent was retained in June, 1986, by Mr. and Mrs. H [REDACTED] who reside in Mexico, to pursue an action to foreclose a mortgage on property in Marion County. Thereafter, he encountered difficulty in locating the defendants who had moved out of the state.

11. In or about April, 1987, the respondent informed the local agents for his clients that the suit had been filed. Thereafter, in a letter dated April 24, 1987, he advised his clients the foreclosure sale had been postponed. In fact, the complaint was not filed until June 15, 1987.

12. Respondent testified he found himself confronted in all three cases with problems he could not easily resolve as a new lawyer. Instead of conferring with his senior partners for advice, he floundered and wound up in this situation.

III. Recommendation as to whether or not the respondent should be found guilty: As to each count of the complaint I recommend the respondent be found guilty of violating the following rules in accordance with the Conditional Guilty Plea:

Case No. 70,934
As to Both Counts I and II

Article XI Rule 11.02(3)(a) of The Florida Bar's Integration Rule for behavior contrary to honesty, justice or good morals, and the following Disciplinary Rules of The Florida Bar's Code of Professional Responsibility: 1-102(A)(4) for engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation; 1-102(A)(5) for engaging in conduct that is prejudicial to the administration of justice; 1-102(A)(6) for engaging in any other conduct which reflects adversely on his fitness to practice law; 6-101(A)(3) for neglecting a legal matter entrusted to him; 7-101(A)(1) for intentionally failing to seek the lawful objectives of his client through reasonably available means; 7-101(A)(2) for intentionally failing to carry out a contract of employment entered into with a client for professional services; and the following Rules of Professional Conduct: 4-1.3 for failing to keep a client reasonably informed about the status of a matter; 4-3.2 for failing to make reasonable efforts to expedite litigation consistent with the interests of the client; 4-8.4(c) for engaging in conduct involving dishonesty, fraud, deceit or misrepresentation; and 4-8.4(d) for engaging in conduct that is prejudicial to the administration of justice.

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I recommend the respondent be found guilty of violating Disciplinary Rule 1-102(A)(6) for engaging in any other conduct which reflects adversely on his fitness to practice law for failing to keep the clients' agents reasonably informed and the following Rules of Professional Conduct: 4-1.4(a) for failing to keep a client reasonably informed as to the status of a matter; and 4-8.4(c) for engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation.

IV. Recommendation as to Disciplinary measures to be applied:

I recommend the respondent's Conditional Guilty Plea be accepted and that he be suspended from the practice of law for forty-five days with an automatic reinstatement at the end of the period of suspension as provided in Rule 3-5.1(e) of the Rules of Discipline followed by a two year period of probation with quarterly caseload reports to be verified at the start of probation and include: a list of all pending cases, the nature of each case, the date each is received, and the status of each. Every quarterly report shall be verified and include the status of each case during the quarter to show new cases, closed cases, or activity during the quarter. A supervising attorney practicing law in Marion County shall be appointed by the Bar to review the quarterly reports with a copy of each to be furnished to the Bar. In addition the respondent agrees to pay all costs of these proceedings.

V. Personal History and Past Disciplinary Record: After the finding of guilty and prior to recommending discipline to be recommended pursuant to Rule 3-7.5(k)(4), I considered the following personal history and prior disciplinary record of the respondent, to wit:

Age: 34

Date admitted to Bar: December 20, 1984

Prior Disciplinary convictions and disciplinary measures imposed therein: None

Family: Respondent is married.

Other: It does not appear that any of the respondent's clients were actually prejudiced. However, the respondent's misrepresentations are reprehensible and especially those blaming Judge McNeal for "causing delays in Mr. and Mrs. Anspach's case.

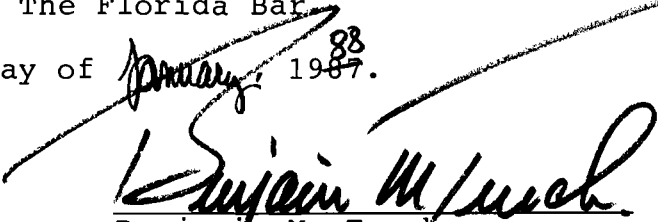
VI. Statement of costs and manner in which costs should be taxed: I find the following costs were reasonably incurred by The Florida Bar.

A. Grievance Committee Level Costs	
1. Administrative Costs	\$ 150.00
2. Transcript Costs	\$
3. Bar Counsel/Branch Staff Counsel Travel Costs	\$
4. Investigator's Expenses	\$
B. Referee Level Costs	
1. Administrative Costs	\$ 150.00
2. Transcript Costs	\$ 130.75
3. Bar Counsel/Branch Staff Counsel Travel Costs	\$ 68.48
4. Investigator's Expenses	\$ 34.10

TOTAL ITEMIZED COSTS \$ 533.33

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 8 day of January, 1987.


Benjamin M. Tench
Referee

Copies to:

David G. McGunegle, Bar Counsel
Scott Tozian, Counsel for Respondent
Staff Counsel, The Florida Bar, Tallahassee, Florida 32301