

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,
Complainant,
v.
JOHN L. JAMES,
Respondent.

Case No. 71-093
(TFB No. 85-10557-02)

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 September 2, 1987, The Florida Bar filed its Complaint in this matter, which was assigned to the undersigned Referee on September 22, 1987.

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.

Sometime in early March 1984, M█████ C█████ C█████ retained Respondent to represent her in a criminal matter in Ocala, Florida. Respondent subsequently agreed to also represent C█████ in a civil

suit involving the purchase of a restaurant. Early in the formation of the attorney-client relationship, Respondent learned that C [REDACTED] was an alcoholic and had suffered physical abuse in the past. During the professional relationship, Respondent used abusive language and conduct which intimidated and frightened C [REDACTED]. After successfully suing C [REDACTED] for attorney fees in the civil matter, Respondent used intimidating tactics against C [REDACTED] in his statements to discover her assets and collect his award.

III. RECOMMENDATIONS AS TO GUILT. I recommend that Respondent be found guilty of violating Rule 1-102(A)(6) (a lawyer shall not engage in any other conduct that adversely reflects on his fitness to practice law) of the Code of Professional Responsibility.

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. Suspension from the practice of law in Florida for a period of ninety (90) days. This suspension shall run from the date of finding of probable cause in this matter which was May 29, 1986.
- B. Upon readmission to The Florida Bar, Respondent will be placed on probation for a period of one year. Such probation is supervisory in nature and will be applicable only if Respondent practices as a sole practitioner without direct supervision.
- C. Payment of costs incurred by The Florida Bar in bringing this action. Such costs to be paid within thirty (30) days of the date of the Supreme Court's order imposing discipline, unless such time is extended by the Board of Governors.

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: 47 years

Date admitted to the Bar: May 31, 1977

Prior Discipline: In case number 62,951, Respondent was found guilty of violating Disciplinary Rules 1-102(A)(4) (engaging in conduct dishonesty, fraud, deceit, or misrepresentation); 3-101(A) (aiding a nonlawyer in the unauthorized practice of law); 3-102(A) (sharing legal fees with a nonlawyer); 3-103 (forming a partnership with a nonlawyer consisting in part of the practice of law); 5-107(B) (permitting a person who employs or pays a lawyer for rendering legal services to another to regulate the lawyer's professional judgment); and 7-101(A)(3) (prejudicing or damaging a client) of the Code of Professional Responsibility of The Florida Bar. These violations stemmed from Respondent's involvement as an attorney in a profit-making enterprise with a commercial business which subordinated the practice of law to the activities of the commercial business.

In case number 65,143, Respondent admitted to serious misbehavior before a county court which resulted in the judge ordering a baliff to escort Respondent from the courtroom. As a result, he was found guilty of violating Disciplinary Rules 1-102(A)(5) (engaging in conduct prejudicial to the administration of justice); 1-102(A)(6) (conduct adversely reflecting on fitness to practice law); and 7-101(A)(3) (prejudicing or damaging a client) of the Code of Professional Responsibility of The Florida Bar.

In case number 63,652, Respondent was found guilty of violating Disciplinary Rules 1-102(A)(2) (circumventing a disciplinary rule by

actions of another); 1-102(A)(5) (conduct prejudicial to the administration of justice); 1-102(A)(6) (conduct adversely reflecting on fitness to practice law); 7-104(A)(1) (communicating or causing another to communicate with a represented party); 7-106(C)(5) (failure to comply with local custom or practice without notifying opposing counsel of intent not to comply); 7-106(C)(7) (intentionally violating established rule of procedure) and 7-110(B) (communicating or causing another to communicate with a judge on the merits of an action in an adversary proceeding without notifying opposing counsel) of the Code of Professional Responsibility of The Florida Bar. These violations stemmed from Respondent's conduct while representing a client in a domestic relations case. As a result of the aforementioned findings, Respondent was suspended from the practice of law for a period of four months, effective November 25, 1985. As a condition for reinstatement, the court ordered that Respondent be required to pass the ethics portion of The Florida Bar examination. To date, Respondent was not applied for reinstatement.

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

1. Administrative Costs	\$150.00	
2. Court Reporter's Fees	642.50	321.25 <i>gm</i>


B. Referee Level

1. Administrative Costs	\$150.00
2. Investigator Expenses	11.02

TOTAL	\$953.52	632.27 <i>gm</i>
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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 20th day of April, 1988.



JOHN W. PEACH, REFEREE
Post Office Box 272
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(904) 792-1719

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 JOHN L. JAMES, ESQUIRE, Respondent, at his record Bar address of Post Office Box 854, Havana, Florida 32333 this 3rd day of June, 1988.



JOHN W. PEACH, REFEREE