

Supreme Court of Florida

ORIGINAL

No. 78,823

THE FLORIDA BAR,

complainant,

vs.

MICHAEL KINNEY,

Respondent.

[October 15, 1992]

PER CURIAM.

This case is before the Court on report of the referee and request of The Florida Bar that Respondent Michael Kinney be disciplined for an ethical violation. We have jurisdiction, Art. V, § 15, Fla. Const.

The parties have stipulated to the facts. Kinney was approached by a client to file suit against an insolvent insurer as a result of a slip-and-fall accident. Apparently unaware that insolvent insurers are subject to reduced statutes of limitation, Kinney neglected to file the suit until the statutory deadline had passed. As a result, the client's suit was dismissed on summary judgment. The **referee accepted** the stipulation, found Kinney guilty of violating **Rule** Regulating The Florida Bas 4-1.3 (duty to act with diligence), and recommended a public reprimand with three years' probation. The recommendation was based in part on a prior disciplinary proceeding in which Kinney also was found to have failed to timely file suit for a client. **The Bar** agrees with the referee's findings and recommendation.

Kinney argues that he was unaware of the reduced statute of limitation and thus did not show a lack of diligence. We disagree. An attorney is under an obligation to discover the law applicable to the case at hand. Ignorance is no excuse in a case where the attorney previously has failed to meet the same or another statute of limitation. Accordingly, we accept the stipulated facts and concur in most of the referee's recommendation. Kinney is publicly reprimanded by publication of this opinion in Southern Reporter. There will be no probation. Costs in the amount of \$1,161.04 are assessed against Kinney, for which sum let execution issue.

It is so ordered.

BARKETT, C.J., and OVERTON, McDONALD, SHAW, GRIMES, KOGAN and HARDING, JJ., concur.

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION AND, IF FILED, DETERMINED.

Original Proceeding - The Florida Bar

John F. Harkness, Jr., Executive Director and John T. Berry,
Staff Counsel, Tallahassee, Florida; and Susan V. Bloemendaal,
Assistant Staff Counsel, Tampa, Florida,

for Complainant

Scott K. Tozian of Smith and Tozian, P.A., Tampa, Florida,

for Respondent