

64,334

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,
Complainant,

CONFIDENTIAL

vs

CASE NOS. 09A83C35
09A83C05

JAMES C. COLLIER,
Respondent,

FILED

SID J. WHITE

MAY 25 1984

CLERK, SUPREME COURT

By _____
Chief Deputy Clerk *pl*

REPORT OF REFEREE

I. Summary of Proceedings: Pursuant to the undersigned being duly appointed as referee to conduct disciplinary proceedings herein according to Article XI of the Integration Rule of the Florida Bar, a hearing was held on Wednesday April 11, 1984, beginning at 2:00 o'clock P.M. in chambers at the Brevard County Courthouse, 400 South Street, Titusville, Florida 32780. Both parties had previously consented to the hearing in Brevard County rather than Orange County, the County of the Respondent. The Pleadings, Notices, Motions, 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: John ^{B.} Root, Jr., Bar Counsel

For the Respondent: No appearance by counsel. The Respondent elected to represent himself in these proceedings (R-6).

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:

COUNT I

1. That the Respondent, James C. Collier, is, and all times hereinafter mentioned, was a member of The Florida Bar, subject to the jurisdiction and disciplinary rules of The Supreme Court of Florida (Bar Exhibit 2, R-10).

2. At all times material respondent practiced law in Orange County, Orlando, Florida (Bar Exhibit 2,R-10).

3. Willie L. Parks and his family retained respondent to handle sale of certain real property in the estate of Mr. Park's father. The closing took place, and all funds due the sellers were paid to the respondent for distribution (Bar Exhibit 2).

4. Mr. Parks received a personal, nontrust account check from respondent by letter dated October 26, 1982 in the amount of 1,263.71 as his share from the property sale. Upon deposit, the check was returned to Mr. Parks with a notation that there were insufficient funds to pay it (Bar Exhibit 2).

5. After several telephone calls to the respondent, Mr. Parks received \$500.00 by direct transfer to his bank account (Bar Exhibit 2).

6. Mr. Parks again contacted the respondent in an attempt to collect the balance of the amount due him. Respondent failed to return his calls, the check has not been honored and the complainant is still due the balance of his money (Bar Exhibit 2).

7. In December, 1982 Mr. Parks complained to The Florida Bar (Bar Exhibit 2).

8. By reason of the foregoing, the respondent has violated the following Rules:

a. Disciplinary Rule 9-102(B)(1) - by failing to promptly notify a client of the receipt of his funds;

b. Disciplinary Rule 9-102(B)(3) - by failing to maintain complete records of all funds of a client coming into his possession and to render appropriate accounts to his client;

c. Disciplinary Rule 9-102(B)(4) - by failing to promptly pay his client the money due him; and

d. Integration Rule, Article XI, Rule 11.02(4) - by improperly failing to account for and deliver over money belonging to his client, upon demand; and by failure to place his client's money in a trust account and applying it only for his client's purposes.

COUNT II

(Case No. 09A83C05)

9. That the Respondent, James C. Collier, is, and all times hereinafter mentioned, was a member of The Florida Bar, subject to the jurisdiction and disciplinary rules of The Supreme Court of Florida. At all times material respondent practiced law in Orange County, Orlando, Florida (Bar Exhibit 2, R-10).

10. Respondent was retained by Lessie Lee Scott to probate the estate of Booker T. Davis, her deceased father. She issued a check to respondent on June 22, 1982 for \$200.00 as payment for court costs and fees for services to be rendered (Bar Exhibit 2).

11. On or about July 22, 1982, respondent issued Check No. 165 on his attorney trust account, made payable to the Clerk of the Circuit Court, to cover court costs of probate of Mr. Davis's estate. The check was not honored and was returned to the Clerk marked "insufficient funds." The check was in the amount of \$55.00 (Bar Exhibit 3).

12. On or about July 9, 1982, respondent issued Check No. 163, drawn on his attorney trust account and made payable to Chicago Title Insurance Co. The check was not honored and returned to the payee marked "insufficient funds." The check was in the amount of \$125.00 (Bar Exhibit 2).

13. By reasons of the foregoing, the respondent has violated Rules:

a. Disciplinary Rule 9-102(B)(2) - for failing to deposit funds belonging to clients in this trust account;

b. Disciplinary Rule 9-102(B)(3) - for failing to maintain complete records of all funds of clients coming into his possession and to render appropriate accounts to his clients regarding them; and;

c. Integration Rule, Article XI, Rule 11.02(4) by failing to apply money entrusted to him by clients for the purpose for which he received the money.

COUNT III

(Case No. 09A83C05)

13. That the Respondent, James C. Collier, is, and all times hereinafter mentioned, was a member of The Florida Bar, subject to the jurisdiction and disciplinary rules of The Supreme Court of Florida. At all times material respondent practiced law in Orange County, Orlando, Florida (Bar Exhibit 2, R-10)

14. During the period December, 1980 through October, 1982, the respondent maintained only one trust account to wit: Trust Account No. 203-247-2 in the Pan American Bank of Orlando (Bar Exhibit 2).

15. He failed to comply with the requirements of the Integration Rule of The Florida Bar and the Bylaws thereto. Specifically, he did not maintain client ledger sheets; he made no periodic reconciliations of the account; he did not maintain records clearly and expressly reflecting the date, amount, source and reason for all receipts, withdrawals, deliveries and disbursements of the funds to his clients.

16. By reason of the foregoing, the respondent has violated the following Rules:

a. Disciplinary Rule 9-102(B)(2) - by failing to deposit all funds of a client in his trust account;

b. Disciplinary Rule 9-102(B)(3) - by failing to maintain complete records of all funds coming into his possession and by failing to render appropriate accounting to his clients; and

c. Integration Rule, Article XI, Rule 11.02(4) - by failing to hold money entrusted to him by, or on behalf of, clients in trust and applying it only to his clients' purposes and by failing to maintain proper trust account records as required by this Rule.

III. Recommendations as to Whether or Not the Respondent should be Found Not Guilty.

I recommend that the Respondent be found GUILTY of the charges in the complaint and specifically that he be found GUILTY of the following violations of his oath as an attorney, The Integration Rule of The Florida Bar and Disciplinary Rules of the Code of Professional Responsibility, Disciplinary Rule 9-102(B)(1), Disciplinary Rule 9-102(B)(2), Disciplinary Rule 9-102(B)(3), Disciplinary Rule

Rule 9-102(B)(4), and Integration Rule, Article XI, Rule 11.02 (4) in that Respondent neglected legal matters entrusted to him.

IV. Recommendations as to Disciplinary Measures to be Applied:

I recommend that the Respondent be suspended from the practice of law for the period of three (3) years and there after until he shall prove his rehabilitation as provided in Rule 11.10 (4) including payment of full restitution.

V. Personal History and Past Disciplinary Record:

After finding Respondent guilty and prior to recommending discipline to be recommended pursuant to Rule 11.06(9)(a)(4), I have considered the following personal history and prior record of the Respondent, to-wit:

Age: 64 years of age (R-11).

Date admitted to Bar: 1950 (R-11).

Prior disciplinary convictions or disciplinary measures imposed are as follows:

1. Private reprimand 1978 (Bar Exhibit 5, R-20).
2. Sixty (60) days suspension June 1983 85 So. 2nd 95 (Bar Exhibit 6).
3. Four months suspension or until Respondent demonstrated rehabilitation July 14, 1983 435 So. 2nd 802 (Bar Exhibit 7). Further that the Respondent has not proven rehabilitation and remains on suspension (R-23).

Other Personal Data: The Court has considered that the Respondent has been experiencing physical and medical problems for approximately the last 8 or 9 months, these problems include, diabetes and high blood pressure (R-11, 12) and Respondent's contributions to his community (R-24).

VI. Statement of Costs and Manner in which Cost should be Taxed:

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

Administrative Costs at Grievance Committee Level under Rule 11.06(9)(a)(5)	\$150.00
Administrative Costs at Referee Level under Integration Rule 11.06(9)(a)(5)	\$150.00
Total itemized Costs	<u>\$300.00</u>

It is apparent that other costs have or may be incurred including costs for a transcript of the Grievance Committee proceedings and Referee's hearing. It is recommended that all such costs and expenses together with the foregoing itemized costs be charged to the respondent.

Dated this 22 day of May, 1984.



GILBERT S. GOSHORN, JR.
Referee

I HEREBY CERTIFY that a copy of the foregoing Report was furnished to, Honorable Stanley A. Spring, Staff Counsel, The Florida Bar, Tallahassee, Florida, 32301, John B. Root, Jr., Bar Counsel, The Florida Bar, 880 North Orange Avenue, Suite 102, Orlando, Florida, 32801, James C. Collier, Respondent, P.O. Box 5219, Orlando, Florida 32855, this 22 day of May, 1984.

I HEREBY CERTIFY that the original of the foregoing Report was furnished to, The Supreme Court of Florida, Tallahassee, Florida, 32301 this 22 day of May, 1984.



Secretary to Judge Goshorn