

Supreme Court of Florida

No. 65,333

THE FLORIDA BAR, Complainant,

v.

GARY G. SMIGIEL, Respondent.

[October 3, 1985]

PER CURIAM.

This disciplinary proceeding by The Florida Bar against Gary G. Smigiel, a member of The Florida Bar, is presently before us on complaint of The Florida Bar and report of referee. Pursuant to article XI, Rule 11.06(9)(b) of the Integration Rule of The Florida Bar, the referee's report and record were duly filed with this Court. No petition for review pursuant to article XI, Rule 11.09(1) of the Integration Rule of The Florida Bar has been filed.

Having considered the pleadings and evidence, the referee found as follows:

Respondent was charged in an information on October 29, 1981 with Tampering with Evidence, a third degree felony pursuant to Section 918.13, Florida Statutes, in the case of State of Florida v. Gary George Smigiel and Larry Deemer, Circuit Court, Seventh Judicial Circuit, Volusia County, Florida, Case No. 31-3446. He was convicted and adjudicated guilty on March 15, 1982 and received a sentence of three (3) years in the Department of Corrections. Respondent before this court stipulated to the facts as contained in the Complaint in this action.

The referee recommends that respondent be found guilty of violation of article XI, Rules 11.02(3)(a) and (b) of the Integration Rule of the Florida Bar and Disciplinary Rules 1-102(A)(3), (4), (5), and (6); 7-102(A)(3), (4), (6), (7), and (8); 7-102(B)(1)

and (2); 7-106(c)(7); and 7-109(A) of the Code of Professional Responsibility. The referee further recommends that respondent be disbarred from the practice of law in Florida.

Having carefully reviewed the record, we approve the findings and recommendations of the referee.

Accordingly, respondent, Gary G. Smigiel, is hereby disbarred from the practice of law in the State of Florida without leave to reapply for three years effective immediately.

Judgment for costs in the amount of \$803.15 is hereby entered against respondent, for which sum let execution issue. Interest at the statutory rate is to accrue on all costs not paid within thirty (30) days of entry of this Court's final order of discipline, unless the time for payment is extended by the Board of Governors.

It is so ordered.

ADKINS, Acting Chief Justice, and OVERTON, McDONALD, EHRLICH and SHAW, JJ., Concur

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION AND, IF FILED, DETERMINED. THE FILING OF A MOTION FOR REHEARING SHALL NOT ALTER THE EFFECTIVE DATE OF THIS DISBARMENT.

Original Proceeding - The Florida Bar

John F. Harkness, Jr., Executive Director and John T. Berry,
Staff Counsel, Tallahassee, Florida, and David G. McGunegle,
Bar Counsel, Orlando, Florida,

for Complainant

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

for Respondent