

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,
Complainant,
v.
RICHARD W. GRANT,
Respondent.

CONFIDENTIAL
Case No. 65,342
(TFB No. 14-82N31)

FILED
SID J. WHITE
JAN 14 1985

REPORT OF REFEREE

CLERK, SUPREME COURT
By _____
Chief Deputy Clerk *JL*

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, the following proceedings occurred:

On December 21, 1984, Respondent in this matter, tendered a conditional guilty plea in exchange for the Bar's recommendation as to discipline. The Complaint, Conditional Guilty Plea, Joint Recommendation as to Discipline, transcripts and motions, all of which are forwarded to the Supreme Court of Florida with this report, constitute the record in this case.

II. Findings of Fact as to Each Item of Misconduct of Which the Respondent is Charged

After considering all the pleadings, I find:

1. That Respondent, as city attorney for the City of Marianna, Florida, undertook the representation and defense

of the City of Marianna in a civil rights suit and received a fee for such representation.

2. Respondent was then served with the plaintiff's first set of interrogatories and a motion for production, copying, and inspection of documents along with the complaint. Respondent requested an extension of time to respond to the aforementioned interrogatories and motion. The request was granted, and the responses became due September 15, 1980. Respondent failed to respond to a November 14, 1980 motion to compel responses to the first set of interrogatories and did not request an extension of time to do so. On December 12, 1980, an order was entered by United States District Judge Lynn C. Higby compelling the defendants to respond to all outstanding discovery requests by January 15, 1981. At the time of Judge Higby's December 12, 1980 order, the Respondent had failed to respond timely to outstanding discovery requests and did not provide the discovery required by this court order.

3. On February 3, 1981, Judge Higby filed an order requiring the defendants to respond to the fourth set of interrogatories propounded by the plaintiffs by March 16, 1981 and all other pending discovery by February 16, 1981, and also required that defendants pay plaintiffs' costs in the discovery dispute. Respondent did not file responses to the first three sets of interrogatories and the first and second request for admissions until February 19, 1981, three days after the date set in Judge Higby's order. Plaintiffs served on Respondent a third request for admissions, due on May 11, 1981 and a fourth request for admissions, due on June 17, 1981. These requests also were not answered by Respondent. The fifth, sixth, seventh and eighth sets of interrogatories were not answered by Respondent on behalf of the defendants.

4. On May 11, 1981, plaintiffs filed a second motion to compel discovery seeking responses to the unanswered discovery. Respondent failed to answer this motion. On June 29, 1981, plaintiffs moved for sanctions under Rule 37 of the Federal Rules of Civil Procedure. Respondent failed to respond to the motion. On August 27, 1981, Judge Higby issued an order requiring defendants to respond to plaintiffs' discovery motions by September 1, 1981. Respondent failed to respond to this order, and as a result, plaintiffs filed a motion for default judgment. The Respondent also failed to answer the motion for default judgment.

5. On December 8, 1981, Judge Higby held a hearing on all pending motions which Respondent failed to attend. As a result, Judge Higby issued an order finding defendants fully liable on all claims set forth in the plaintiffs' second amended complaint, other than those earlier dismissed. Judge Higby also ordered that defendants pay Mr. David Lipman, attorney for plaintiffs, \$2,675.50 in fees. Pursuant to Federal Rule of Civil Procedure 36(a), all unanswered requests for admissions were deemed admitted by Judge Higby.

III. Recommendations as to Whether the Respondent Should be Found Guilty

I recommend that the respondent's Conditional Plea of Guilty be accepted and specifically that he be found guilty of the following violations of the Code of Professional Responsibility:

DR 6-101(A)(3) Neglect of a Legal Matter.

IV. Recommendation as to Disciplinary Measures to be Applied:

I recommend that respondent be disciplined by:

(1) A public reprimand administered by the Supreme Court of Florida.

(2) Payment of restitution in the amount of \$2,675.50 to the City of Marianna, Florida.

(3) Payment of costs in these proceedings.

V. Personal History and Past Disciplinary Record:

Prior to recommending disciplinary pursuant to article XI, Rule 11.06(9)(a)(4), I considered the following personal history of the Respondent, to wit:

Age: 44

Date Admitted to the Bar: June 7, 1965

Prior Discipline: None

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. Bar Counsel Travel	43.45
3. Court Reporter	164.60

B. Referee Level Costs

1. Administrative Costs	150.00
TOTAL	<u>\$508.05</u>

It is recommended that such 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 27th day of December, 1984.


Referee

Copies to:

Susan V. Bloemendaal, Bar Counsel
Richard W. Grant
Staff Counsel of The Florida Bar