

IN THE SUPREME COURT OF FLORIDA  
(Before a Referee)

THE FLORIDA BAR,

Complainant,

vs.

JAMES C. COLLIER,

Respondent.

- - - - - /

CONFIDENTIAL

CASE NO. 09A84C37

**FILED**

S'D J. WHITE

NOV 30 1984

REPORT OF REFEREE

CLERK, SUPREME COURT

By \_\_\_\_\_  
Chief Deputy Clerk

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 November 2, 1984, in the Brevard County Courthouse, Titusville, Florida. The pleadings, notice, motions, transcripts, exhibits, and affidavit of costs, all of which are forwarded to the Supreme Court of Florida with this report, constitute the record in this case.

The Florida Bar was represented at the hearing by JOHN B. ROOT, JR., ESQ., Assistant Staff Counsel, and the Respondent represented himself.

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, the pertinent portions of which are commented upon below, I find as follows:

1. In October 1982 the Respondent was retained to represent Kenneth Thomas in a divorce action, and Mr. Thomas paid the Respondent One Hundred Sixty Dollars (\$160.00) toward fee and costs for his legal services. Subsequent to that occasion, the client met with the Respondent in his office and filled out a financial affidavit.

2. Thereafter the Respondent filed no petition for dissolution of marriage on behalf of the client and has not contacted his client since the aforesaid second meeting.

3. The client went by the Respondent's office on at least five occasions but was never able to see the Respondent,

the door to Respondent's office was always locked and no one appeared to be present.

The foregoing findings of fact are based upon the Complainant's Requests for Admission submitted to the Respondent (Bar's Exhibit No. 1 in evidence) and the Respondent failed to admit or deny said admissions. Hearing Transcript Page 5, Line 17 through Page 6, Line 21. At the hearing, the Respondent did not contest the factual matters set forth in the Requests for Admission, however he relied upon stated poor health as his reasons for client inattention. Hearing Transcript Page 4, Line 12 through Line 23; Page 9 through Line 18.

III. Recommendations as to whether or not the Respondent should be Found Guilty:

I recommend that the Respondent be found guilty and specifically that he be found guilty of violating the following Disciplinary Rules of the Code of Professional Responsibility, to-wit:

1. Disciplinary Rule 1-102(A)(6) - by engaging in conduct which adversely reflects on his fitness to practice law.

2. Disciplinary Rule 6-101(A)(3) - by neglecting a legal matter entrusted to him by his client, Mr. Thomas, by failing to file a petition for dissolution of marriage.

3. Disciplinary Rule 7-101(A)(2) - by failing to carry out his contract of employment entered into with his client for professional services after accepting payment of \$160.00 in consideration of those services.

IV. Recommendation as to Disciplinary Measures to be Applied:

I recommend that the Respondent be suspended for a period of three years and until rehabilitation is proven, restitution to his client, Mr. Thomas, in the amount of One Hundred Sixty Dollars (\$160.00) and payment of costs in the present amount of Five Hundred Seventeen and 64/100 Dollars (\$517.64) incurred by the Florida Bar as evidence in its Affidavit of Costs.

V. Personal History and Past Disciplinary Record:

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

Age: 64 years;

Date Admitted to Florida Bar: 1949 (Hearing Transcript Page 25, Line 11 through Line 16);

Prior Disciplinary Convictions and Disciplinary Measures Imposed Therein: Private reprimand was administered to the Respondent on November 16, 1978, for a similar type situation; on June 19, 1980, the Supreme Court of Florida imposed a sixty day suspension of the Respondent and a two year period of probation subsequent to his reinstatement in a case involving delay and neglect in the administration of an estate, The Florida Bar vs. James C. Collier, 385 So. 2d 95 (Fla. 1983); on July 14, 1983, the Supreme Court of Florida imposed another suspension of the Respondent for a period of four months for again a pattern of conduct similar to the present matter in neglecting a client's affairs, The Florida Bar vs. James C. Collier, 435 So. 2d 802 (Fla. 1983); and the Supreme Court of Florida in a decision cited November 1, 1984, imposed a sanction of three years suspension against the Respondent and thereafter until he shall prove his rehabilitation, the same being imposed for failing to apply money entrusted to him by clients for the purpose for which he received the money.

Other Personal Data: The Respondent states he is a diabetic and has been suffering from depression (Hearing Transcript Page 21 through Page 23); he is single and has two children by an earlier marriage, Cynthia, age 14 and Christopher, age 10 (Hearing Transcript Page 19). The Respondent has been active in Orlando City affairs for the past ten to fifteen years and has held office as Chairman of the Biracial Committee, Library Board and Florida Memorial College (Hearing Transcript Pages 20 and 21).

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

I find the following costs were reasonable incurred by the Florida Bar.

A. Grievance Committee Level Costs

1. Administrative Costs	\$150.00
2. Transcript of Grievance Committee Hearing, 4/25/84	88.75

B. Referee Level Costs:

1. Administrative Costs	150.00
2. Transcript of Referee Hearing held 11/2/84	97.50
3. Bar Counsel's travel expenses (Referee hearing on 11/2/84)	23.14
4. Staff Investigator's expenses	<u>8.25</u>

TOTAL COSTS \$517.64

It is recommended that all such costs and expenses be charged to the Respondent, and that interest at the statutory rate shall accrue and be payable beginning thirty (30) days after Judgment in this case becomes final unless a waiver is granted by the Board of Governor's of the Florida Bar.

Dated this 27<sup>th</sup> day of November, 1984.

  
EDWARD M. JACKSON, REFEREE

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