

65,707

IN THE SUPREME COURT OF FLORIDA

FILED
SID J. WHITE
AUG 6 1984
CLERK, SUPREME COURT
By _____
Chief Deputy Clerk

THE FLORIDA BAR,

Complainant,

v.

ROBERT T. CLELLAND,

Respondent.

CONFIDENTIAL

CASE NO.

The Florida Bar Case No.
17A81114

_____ /

PETITION FOR APPROVAL OF CONDITIONAL GUILTY
PLEA FOR CONSENT JUDGMENT AND ENTRY
OF FINAL ORDER OF DISCIPLINE

The Florida Bar respectfully requests this honorable Court to approve the attached Conditional Guilty Plea for Consent Judgment in accordance with the terms of the Plea and says:

1. On June 28, 1984, The Florida Bar received the attached Conditional Guilty Plea for Consent Judgment, which was signed by Robert T. Clelland, the respondent, and is attached as Exhibit A. The finding of probable cause by the Grievance Committee occurred prior to adoption, by the Court on June 28, 1984, of proposed amendments to the Integration Rule. Said case was styled The Florida Bar In Re: Amendment To Article XI, Florida Bar Integration Rule (Rules of Discipline) and assigned Supreme Court Case No. 64,520. The order adopting the amendments made them effective 12:01 A.M., July 1, 1984, but did not state that they would be retroactive in effect to Pleas already tendered. Accordingly, it is requested that this Plea be processed directly by the Court under the rules in effect when probable cause was found and the Plea submitted, without appointment of a Referee.

2. By signing the attached Conditional Guilty Plea for Consent Judgment, the Respondent agreed to be disciplined by a

public reprimand to be administered by Order of the Supreme Court of Florida, publication in the Southern Reporter and by personal appearance before the Board of Governors of The Florida Bar, to pay to The Florida Bar the costs of proceedings in the amount of \$795.73 in return for a guilty plea to violating Article XI, Rule 11.02(3) of the Integration Rule (conduct contrary to honesty, justice, good morals), and Disciplinary Rules 1-102(A)(3) (engaging in illegal conduct involving moral turpitude), 1-102(A)(4) (engaging on conduct involving dishonesty, fraud, deceit or misrepresentation), 3-102(A) (sharing legal fees with a nonlawyer) and 6-101(A)(3) (neglect of a legal matter entrusted to him).

3. The facts of this case are:

A. Respondent was retained by James E. Fannin, Sr., to represent his interest concerning claims arising out of an automobile accident. For at least twenty-one (21) months, the Respondent failed to pursue any insurance claim with regard to Crown Insurance Company. As a result, Mr. Fannin was forced to pursue the entire claim against Southland Insurance Company. Southland refused to pay a medical bill of \$1,715 since the claim was filed more than one (1) year after it was incurred. Mr. Fannin sued the Respondent and the case was settled whereby Respondent paid Mr. Fannin \$3,000.

B. Respondent wrote a letter to one Dr. Frank Stuart advising him that Respondent's fee would be thirty-three (33) percent.

C. While under oath at two (2) grievance committee hearings, Respondent made untruthful statements concerning his signature on the letter to Dr. Stuart. Respondent did not believe he was testifying falsely as he did not believe he had signed the letter.

D. The fee Respondent paid to an investigator in Mr. Fannin's case happened to be one-third (1/3) of his fee, and the grievance committee felt that Respondent divided a legal fee with a nonlawyer by paying a percentage of his contingency fee.

4. On July 20, 1984, the Board of Governors of The Florida Bar voted to accept and approve the Respondent's Conditional Guilty Plea for Consent Judgment.


5. Respondent is currently practicing law in Fort Lauderdale, Florida; is forty (40) years of age; and was admitted to the practice of law in Florida on March 5, 1971. The records of The Florida Bar do not reflect any prior disciplinary sanctions being imposed upon Respondent.

WHEREFORE, The Florida Bar respectfully requests this Court approve the attached Conditional Guilty Plea for Consent Judgment and enter a Final Order of Discipline consistent with the terms of said Plea, whereby the following discipline shall be imposed:

A. That Respondent, Robert T. Clelland, receive a public reprimand to be administered by Order of the Supreme Court of Florida, publication in the Southern Reporter and by personal appearance before the Board of Governors of The Florida Bar.

B. That Respondent be ordered to pay \$795.73 to The Florida Bar as the costs of these proceedings and pursuant to Article VIII, Section (6) of The Integration Rule, said costs be paid within thirty (30) days of this Court's final Order unless such time is extended by the Board of Governors for good cause.

Respectfully submitted,

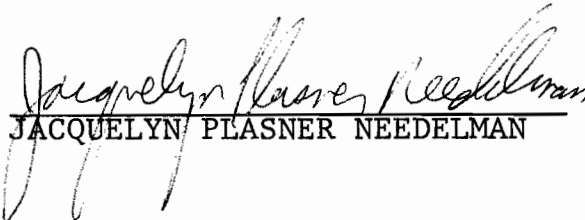

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Petition has been forwarded to William H. Kilby, Attorney for Respondent, 301 Trial Lawyers Building, 633 S. E. Third Avenue, Fort Lauderdale, Florida 33301, on this third day of August, 1984, by regular United States mail.


JACQUELYN PLASNER NEEDELMAN