

IN THE SUPREME COURT OF FLORIDA  
(Before a Referee)

THE FLORIDA BAR, )  
Complainant, )  
v. )  
EDWARD J. WINTER, JR. )  
Respondent. )

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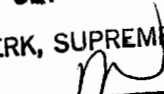
Supreme Court Case  
No. 66,631

**FILED**

SID J. WHITE

SEP 9 1985

CLERK, SUPREME COURT

By  Chief Deputy Clerk

REPORT OF REFEREE

I. SUMMARY OF PROCEEDINGS: Pursuant to the undersigned being duly appointed as Referee for the Supreme Court of Florida to conduct disciplinary proceedings as provided for by article XI, Rule 11.06 of the Integration Rule of The Florida Bar, this matter was reviewed in chambers without a formal hearing. All of the pleadings, notices, motions, orders and exhibits are forwarded with this report and the foregoing constitutes the record of this case.

The following attorneys acted as counsel for the parties:

For The Florida Bar: LOUIS THALER  
211 Rivergate Plaza  
444 Brickell Avenue  
Miami, Florida 33131

For the Petitioner: ANGELO P. DEMOS, ESQ.  
Suite 801 New World Tower  
100 N. Biscayne Boulevard  
Miami, Florida 33132

On February 20, 1985, Respondent, by and through counsel Angelo P. Demos, submitted a Conditional Guilty Plea for Consent Judgment of Public Reprimand directly to the Supreme Court of Florida. On March 25, 1985, the Supreme Court appointed the undersigned to act as Referee. On May 14, 1985, The Florida Bar, by and through Counsel Louis Thaler, submitted a Petition for Approval of Conditional Guilty Plea for Consent Judgment of Public Reprimand.

In said Petition for Approval, The Florida Bar based its approval of the Conditional Guilty Plea on the recommendation of Stephen Zack, Board of Governor Designated Reviewer of Eleventh Judicial Circuit Grievance Committee "G", pursuant to Rule 11.13(6)(a) of the Integration Rule of The Florida Bar. As all parties were in agreement as to facts and discipline, the undersigned proceeded to review this matter without a formal hearing.

II. FINDINGS OF FACT:

1. That Respondent, Edward J. Winter, is and at all times hereinafter was, a member of The Florida Bar subject to the jurisdiction and disciplinary rules of the Supreme Court of Florida.

2. That during or about 1982, Respondent undertook to represent Deborah Hoffman in a dissolution of marriage proceeding against her husband, Michael A. Hoffman, Martin County, Circuit Court Case No. 82-994CA (Family Civil Section).

3. That L. Murray Fitzhugh represented the husband in the above-mentioned dissolution of marriage proceedings.

4. That on or about August 23, 1983, Respondent sent Fitzhugh a Notice of Hearing which purportedly set a hearing on a Motion for Contempt for August 30, 1983 at 3:00 P.M. before Circuit Judge Charles E. Smith.

5. That Fitzhugh appeared at the Martin County Courthouse on August 30, 1983 at 3:00 P.M. pursuant to the Notice of Hearing sent by Respondent.

6. That Respondent had never filed a Motion for Contempt in the Hoffman dissolution of marriage proceedings.

7. That Respondent never filed the Notice of Hearing which purportedly set a hearing on Motion for Contempt in the Hoffman dissolution of marriage proceedings.

8. That Respondent could not have set a hearing on a motion for contempt on August 30, 1984 at 3:00 P.M. because the court was on vacation.

9. That Respondent admits that the mailing of a Notice of Hearing setting a hearing on a Motion for Contempt to opposing counsel where no hearing was actually set or no motion for contempt ever filed with the court was overzealous and improper conduct on the part of an attorney.

III. RECOMMENDATION AS TO FINDING OF GUILTY:

Based upon the Conditional Guilty Plea submitted by Respondent, I find Respondent guilty of violating Disciplinary Rules 1-102(A)(4), 1-102(A)(5) and 7-106(C)(7) of the Code of Professional Responsibility.

IV. RECOMMENDATION AS TO DISCIPLINARY MEASURES:

Based upon the agreement of all parties that a Public Reprimand to be published in the Southern Reporter be the disciplinary measure imposed, I hereby recommend same.

V. RECOMMENDATION AS TO COSTS:

I find that the following costs were reasonably incurred by The Florida Bar and recommend that they be assessed against Respondent, to be payable 30 days after the Supreme Court approval of this Report of Referee.

Grievance Committee Transcript May 24, 1984 .....	\$ 247.90
Administrative Cost Grievance Committee Level..	150.00
Administrative Cost Referee Level.....	<u>150.00</u>
TOTAL.....	\$ 547.90 =====

Respectfully submitted this 30 day of Aug., 1985

*Miette K. Burnstein*  
MIETTE K. BURNSTEIN  
Referee

MXB 8/30/85