

IN THE SUPREME COURT OF FLORIDA  
(Before a Referee)

**FILED**

SID J. WHITE

NOV 13 1985

~~CONFIDENTIAL~~ CLERK, SUPREME COURT

CASE NO. 669877  
Chief Deputy Clerk

THE FLORIDA BAR,  
Complainant,

v.

GEORGE CLARK SMITH,  
Respondent.

REPORT OF REFEREE

I. SUMMARY OF PROCEEDINGS. On May 6, 1985, the Chief Justice of the Supreme Court of Florida appointed the undersigned to serve as Referee in this case.

The following attorneys appeared as counsel for the parties:

For The Florida Bar: Paul A. Gross of Miami  
For the Respondent: George Clark Smith, Pro Se,  
of Miami.

II. FINDINGS OF FACT. On August 22, 1985, George Clark Smith, also known as George C. Smith, the Respondent, signed a Conditional Guilty Plea for Consent Judgment to the Complaint, in exchange for suspension from practicing law in the State of Florida for a period of sixty (60) days and costs of proceedings.

1. The Conditional Guilty Plea was approved by the Bar Counsel and the Designated Reviewer in accordance with Florida Bar Integration Rule, article XI, Rule 11.13(6)(b).

2. By his plea, the Respondent admitted that he was guilty of violating the Code of Professional Responsibility, Disciplinary Rule 6-101(A)(3), neglect of a legal matter entrusted to him.

3. A brief summary of the facts are as follows:  
During the late 1975 or early 1976, Oliver E. Carr retained the Respondent to help him settle a claim against an insurance company for damages to his home caused by a fire during 1975.

On September 17, 1976, Respondent sent a letter demanding settlement. Subsequent to that date, Respondent took little or no action on his client's behalf. However, after a complaint was filed by the client with The Florida Bar (October 1983), Respondent promised to renew his efforts.

On several occasions, the Respondent advised his client that he was working on the case and that a settlement would be forthcoming. Since the fire occurred during 1975, it is probable that the Statute of Limitations expired.

On September 19, 1985, the Respondent's former client, Oliver E. Carr, signed a General Release in return for \$10,500, concerning his claim for damages against George Clark Smith. The claim concerned the same matters that are in the Complaint. See Exhibit 1. It is understood that Mr. Carr is still attempting to collect some money from the insurance company and is contending that the Statute of Limitation may have been tolled - despite this, it is apparant that the Respondent neglected a legal matter that was entrusted to him.

III. RECOMMENDATION AS TO WHETHER OR NOT RESPONDENT SHOULD BE FOUND GUILTY. The undersigned Referee recommends that the Conditional Guilty Plea for Consent Judgment be approved by this Court and that Respondent be found guilty of violation the Code of Professional Responsibility, Disciplinary Rule 6-101(A)(3), neglect of a legal matter entrusted to him.

IV. RECOMMENDATION AS TO DISCIPLINARY MEASURES TO BE APPLIED. It is recommended that George Clark Smith, Respondent, be suspended from the practice of law in Florida for a period of sixty (60) days.

V. PERSONAL HISTORY AND PAST DISCIPLINARY RECORD. George Clark Smith is 68 years of age and was admitted to practice law in Florida during 1949. Mr. Smith was given a

public reprimand on December 18, 1980 for neglecting a legal matter. The Florida Bar v. Smith, 392 So.2d 1 (Fla. 1980). He was given a second public reprimand on February 28, 1985, also for neglect of a legal matter. The Florida Bar v. Smith, 464 So.2d 1184 (Fla. 1984).

In mitigation, Mr. Smith states that he's a single practitioner, who has had many problems with an alcoholic wife, to whom he was married for fifteen years, and these problems affected his practice of law. Mr. Smith says he has divorced the alcoholic wife and married a woman who does not drink alcoholic beverages.

The person who was injured because of Mr. Smith's neglect has settled his claim against Mr. Smith for \$10,500. See Exhibit 1.

VI. STATEMENT OF COSTS AND MANNER IN WHICH COSTS SHOULD BE TAXED. The undersigned Referee finds the following costs were reasonably incurred by The Florida Bar and should be assessed against the Respondent:

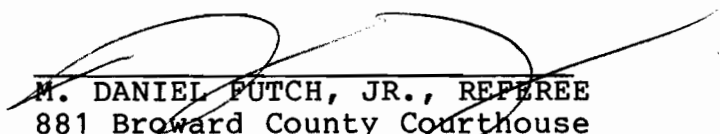
|  |               |
|--|---------------|
| Court Reporter Costs for grievance committee hearing.  |               |
| June 28, 1984. . . . .   | 97.50         |
| November 28, 1984. . . . .   | 70.10         |
| Administrative Costs for grievance committee level (\$150) and for referee level (\$150). Florida Bar Integration Rule, art. XI, Rule 11.06(9)(a)(5) . . . . | <u>300.00</u> |
| TOTAL COSTS  | 467.60        |

VII. CONFIDENTIAL STATUS. It is recommended that the Confidential Status of this case be maintained until this Court issues an order approving the Report of Referee.

It is further recommended that execution issue, with interest at a rate of 12% per year on all costs not paid within thirty (30) days of entry of this Court's order, unless the

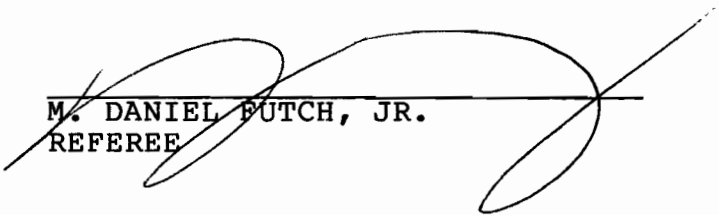
time for such payment is extended by the Board of Governors  
of The Florida Bar.

Dated this 14 day of November, 1985.

  
M. DANIEL FUTCH, JR., REFEREE  
881 Broward County Courthouse  
Ft. Lauderdale, Florida 33301  
(305)765-4712

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that true copies of the foregoing Report  
of Referee were mailed this 14 day of November, 1985,  
to the following persons: Paul A. Gross, Bar Counsel, The  
Florida Bar, 211 Rivergate Plaza, 444 Brickell Avenue, Miami,  
Florida 33131; John T. Berry, Staff Counsel, The Florida Bar,  
Tallahassee, Florida 32301-8226, and to George Clark Smith, the  
Respondent, at 636 N.E. 68th Street, Miami, Florida 33138.

  
M. DANIEL FUTCH, JR.  
REFEREE