

IN THE SUPREME COURT OF FLORIDA

(Before a Referee)

THE FLORIDA BAR,

Complainant,

vs.

WILLIAM FENTON LANGSTON,

Respondent.

Case No.: 67,261

By: Deputy Clerk

TFB File No.: 83-03599-02;
(Formerly File No.: 02-83N88)

REPORT OF THE REFEREE

I. SUMMARY OF PROCEEDINGS

Pursuant to the undersigned being duly appointed as referee to conduct disciplinary proceedings herein according to Rule 3-7.5, Rules of Discipline, the following proceedings occurred:

On June 28, 1985, The Florida Bar filed its Complaint against Respondent. On August 15, 1985, The Florida Bar served its Request for Admissions upon Respondent. On September 23, 1985, Respondent filed his Responses to Request for Admissions as well as his Answer and Defenses to The Florida Bar's Complaint. Final Hearing was held April 12, 1988. All of the aforementioned pleadings, attachments thereto, exhibits received into evidence, transcript of proceedings, and this report constitute the record in this case and are forwarded to the Supreme Court of Florida.

II. FINDINGS OF FACT

A. Jurisdictional Statement. The Respondent is, and at all times mentioned during this investigation was, a member of the Florida Bar, subject to the jurisdiction and Disciplinary Rules of the Supreme Court of Florida.

B. Narrative Summary of Case. The Complaint filed by The Florida Bar in this matter charges Respondent with violating

Disciplinary Rule 1-102(A)(3) which states that a lawyer shall not engage in illegal conduct involving moral turpitude; Disciplinary Rule 1-102(A)(4) which states that a lawyer shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation; Disciplinary Rule 1-102(A)(5) which states that a lawyer shall not engage in conduct that is prejudicial to the administration of justice; and Disciplinary Rule 1-102(A)(6) which states that a lawyer shall not engage in any conduct that adversely reflects on his fitness to practice law. All the facts upon which the Complaint is based arise out of a particularly acrimonious dissolution proceeding between Respondent and his former wife, RAMSEY LANGSTON, which commenced in 1981 and concluded in 1983.

Respondent was charged with misconduct regarding four situations arising during these divorce proceedings. The referee makes the following findings of facts in each of those four situations.

1. Beach House. During the Final Hearing in Respondent's divorce case, Respondent was asked by wife's counsel a series of questions relating to Respondent's various places of residence and the expense of those residences since the time of the separation of the parties. Respondent testified that he had resided in a beach house which was marital property for one or two months during the summer of 1981. Wife's counsel then asked him when was the last time he had been at the beach house and Respondent stated in August, 1981. Wife's counsel thanked him and then called a witness who testified that Respondent had been at the beach house just the day before removing personal property from that beach house. The Bar argues that in failing to testify that he had been at the beach house the day before the final hearing, that Respondent perjured himself. The Referee is inclined to give little weight to the impeaching questions, because wife's counsel failed to make the impeaching question particular with respect to time, place and circumstances.

Because of the way the impeachment attempt was constructed, it is entirely reasonable to believe that Respondent misunderstood the question. Accordingly, based on the facts and proof adduced at hearing, this charge is not cause to find that Respondent violated the above Disciplinary Rules.

2. Financial Statements. The Bar Complaint charges that Respondent inaccurately represented his financial condition particularly regarding two properties, to financial institutions for the purpose of inducing them to make him a loan. With regard to the Ocala Road Property, the value of which The Bar charges Respondent inaccurately represented, it appears that the bank had more knowledge regarding the property than Respondent had. With regard to the tract of land in Wakulla County, which on the financial statement Respondent represented belonged to him, when in actuality the property belonged to his mother, the Referee finds that Respondent's explanation was plausible and the information given on the financial statement was not intended to mislead the banks nor was it evidence of conclusive dishonesty, fraud, deceit, or misrepresentation. Accordingly, neither charge is cause for finding Respondent guilty of violating the Disciplinary Rules.

3. Contempt of Court. The Bar charges that Respondent violated the aforementioned Disciplinary Rules by his conduct which resulted in the entry of several contempt orders by the Judge presiding over the dissolution proceedings. These Orders were entered because of Respondent's failure to cause property which he had transferred out of his name to be transferred back into his name; for transferring interests in property in violation of the Court's Order not to transfer interests in property; for failure to make Court ordered alimony and child support payments; and, for violating a Court Order not to leave the jurisdiction. Though the Referee does not approve of the overall conduct with regard to Respondent's responses to Court Orders, it is the Referee's conclusion that the Court in the dissolution case entered Orders based upon proposals made by

wife's counsel which Orders were obtained through vigorous representation by that counsel. Respondent spent six (6) weeks in jail as a result of those various contempt orders. Respondent is not in contempt of court at this time and has ultimately satisfied all the Orders of the Court. The Referee concludes that though Respondent's actions may not have been correct, Respondent is not by his conduct guilty of violating any of the above Disciplinary Rules.

4. Perjury. The fourth and final foundation for the Bar's charge that Respondent violated the aforementioned Disciplinary Rules concerns testimony at a deposition taken ten days before the final dissolution hearing commenced, wherein Respondent testified that he had not, during the course of his marriage, had sexual relationships with any women other than his wife. Respondent recanted his testimony the next day both verbally and by letter and also recanted the testimony during the final hearing on the dissolution of marriage. Though the Referee understands Respondent's personal reasons for first denying under oath that he had had sexual relationships with anyone other than his wife, the Referee concludes that Respondent did violate a Disciplinary Rule in first testifying under oath that he had not engaged in extra-marital affairs, when in fact he had.

III. RECOMMENDATIONS AS TO GUILT.

I recommend that Respondent be found guilty of violating Disciplinary Rules 1-102(A) (3,4,5, and 6) of The Florida Bar.

IV. RECOMMENDATION AS TO DISCIPLINARY MEASURES TO BE APPLIED

I recommend that the Respondent be found guilty of misconduct justifying disciplinary measures, and that he be disciplined by:

- A. Private Reprimand.

B. Probation for 12 months ~~which probation shall~~ *RA*
~~continue~~ *or* until Respondent *shall have* furnished satisfactory proof that he
 has passed the Ethics portion of The Florida Bar Exam, *whichever*
is less time.

C. Payment of costs in these proceedings.

V. PERSONAL HISTORY AND PAST DISCIPLINARY RECORD

Prior to recommending discipline pursuant to Rule 3-7.5(k)(1), I considered the following personal history of Respondent, to-wit:

- Date of Birth: March 26, 1943
- Date Admitted to the Bar: November 10, 1969
- 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	
1. Administrative Costs	\$150.00
2. Court Reporter's Fees	30.00
3. Bar Counsel Travel	None
4. Certified Copies	61.00
5. Investigator's Expense	102.76
B. Referee Level	
1. Administrative Costs	\$150.00
2. Court Reporter's Fees	430.14
3. Bar Counsel Travel	<u>39.90</u>
TOTAL	<u>\$963.80</u>

It is recommended that such costs be charged to 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.

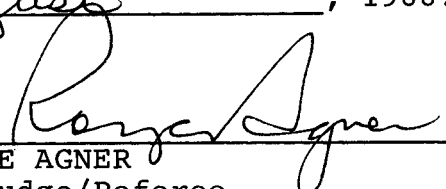
DATED this 29th day of August, 1988.

John Royce Agner

 JOHN ROYCE AGNER
 Circuit Judge/Referee
 Post Office Drawer 1000
 Perry, Florida 32347
 (904) 584-3862

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original of the foregoing Report of Referee has been mailed to SID J. WHITE, Clerk of the Supreme Court of Florida, Supreme Court Building, Tallahassee, Florida 32301, and that copies were mailed by regular U. S. Mail to JOHN T. BERRY, Staff Counsel, The Florida Bar, 650 Apalachee Parkway, Tallahassee, Florida 32399-2300; JAMES N. WATSON, JR., ESQUIRE, Counsel for Complainant, The Florida Bar, 600 Apalachee Parkway, Tallahassee, Florida 32301, and CHARLES R. GARDNER, Counsel for Respondent, at his record Bar address of Gardner, Shelfer & Duggar, P.A., 1300 Thomaswood Drive, Tallahassee, Florida 32312, this 29th day of August, 1988.



JOHN ROYCE AGNER
Circuit Judge/Referee