

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

FILED

SID J. WHITE

FEB 14 1986

CLERK, SUPREME COURT

By _____
Chief Deputy Clerk

THE FLORIDA BAR,
Complainant,
v.
CHARLES E. BARTLETT,
Respondent.

CONFIDENTIAL

Case No. 67,338

(TFB No. 0484N44)

REPORT OF THE REFEREE

I. Summary of Proceedings

Pursuant to the undersigned being duly appointed as referee to conduct disciplinary proceedings herein according to the Florida Bar Integration Rule, article XI, the following proceedings occurred:

On July 12, 1985, The Florida Bar filed its complaint against Respondent and on July 23, 1985, filed its request for admissions in these proceedings. Upon Respondent's failure to respond thereto, The Florida Bar filed a motion to deem matters admitted and a motion for summary judgment on February 5, 1986. All of the aforementioned pleadings, attachments thereto, and exhibits received in evidence, and this report constitute the record in this case and are forwarded to the Supreme Court of Florida.

II. Findings of Fact as to Each Item of Misconduct of Which Respondent is Charged

After carefully considering all pleadings, I find:

In August, 1982, Respondent was retained by Mr. and Mrs. Robinson to cancel a purchase contract for a mobile home and recover damages for injuries sustained in the mobile home. The Robinsons gave \$100 to Respondent as a retainer to represent them. They orally agreed to a contingent fee of one-third of any recovery. No contract was signed by the parties.

In late 1982, Respondent informed his clients that he filed suit in Nassau County when in reality he had not. The Robinsons discovered the misrepresentation and Respondent promised to act honestly in the future.

Respondent delayed any further action until 1983 because he was unsure of what cause of action to pursue or in which court to file the suit. After discussing their case with other attorneys, the Robinsons informed Respondent that they had a products liability case and the suit should be filed in federal court. Respondent filed suit in federal court in early February of 1983.

In October 1983, the Robinsons' mobile home was repossessed. They asked Respondent to file a conversion suit against Yulee Homes as a result of the repossession. He filed suit on February 5, 1984 in the Circuit Court of Clay County, Florida. Respondent informed his clients that he had a court date for trial. They traveled to Jacksonville. Respondent lied about the date. The Robinsons returned to Columbia, South Carolina.

The conversion case finally went to trial in August of 1984. The court entered a judgment in favor of Yulee Homes because Respondent failed to offer any evidence to prove damages from the conversion. The Robinsons received nothing in the final judgment issued on August 27, 1984. The Robinsons had to obtain new counsel for both of their cases as a result of Respondent's negligent actions.

Respondent's actions constitute a violation of Disciplinary Rules 1-102(A)(4) (A lawyer shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation); 1-102(A)(5) (a lawyer shall not engage in conduct that is prejudicial to the administration of justice); 1-102(A)(6) (a lawyer shall not engage in any conduct that adversely reflects on his fitness to practice law); 6-101(A)(1) (a lawyer shall not handle a legal matter which he knows that he is not competent to handle); 6-101(A)(2) (a lawyer shall not handle a legal matter without adequate preparation); 6-101(A)(3) (a lawyer shall not neglect a legal matter entrusted to him); and Rule 11.02(3)(a) of the Integration Rule (the commission by a lawyer of any act contrary to honesty, justice, or good morals constitutes a cause for discipline).

III. I recommend that Respondent be found guilty of the following violations of the Code of Professional Responsibility:

DR 1-102(A)(4) (a lawyer shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation);

DR 1-102(A)(5) (a lawyer shall not engage in conduct that is prejudicial to the administration of justice);

DR 1-102(A)(6) (a lawyer shall not engage in conduct that adversely reflects on his fitness to practice law);

DR 6-101(A)(1)(a lawyer shall not handle a legal matter which he knows that he is not competent to handle);

DR 6-101(A)(2) (a lawyer shall not handle a legal matter without adequate preparation);

DR 6-101(A)(3) (a lawyer shall not neglect a legal matter entrusted to him);

Rule 11.02(3)(a) of the Integration Rule (the Commission by a lawyer of any act contrary to honesty, justice, or good morals constitutes a cause for discipline).

IV. Recommendation as to Disciplinary Measures to be Applied

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

A. Suspension from the practice of law for a period of fifteen (15) months, and that he be required to demonstrate with other appropriate attributes, his rehabilitation, by satisfactorily passing the written examinations administered by the Florida Board of Bar Examiners.

B. Payment of costs in these proceedings.

V. Personal History and Past Disciplinary Record

Prior to recommending discipline pursuant to article XI, Rule 11.06(9)(a)(4), I considered the following personal history of Respondent, to wit:

Age: 43 years old

Date admitted to the Bar: November 18, 1977

Prior Discipline: The Florida Bar v. Bartlett, 462 So.2d 1087 (Fla. 1985). Respondent received a 30-day suspension for trust fund violations.

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 and transcription costs	328.44
3. Bar Counsel travel	102.80
B. Referee level	
1. Administrative Costs	\$150.00
2. Bar Counsel travel	<u>81.40</u>
TOTAL	\$812.64

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 13th day of February, A.D., 1986.



 JOHN J. CREWS, REFEREE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original of the foregoing Report of Referee has been mailed to HONORABLE SID J. WHITE, Clerk of The Supreme Court of Florida, Supreme Court Building, Tallahassee, FL. 32301, and a confidential copy sent to JAMES N. WATSON, ESQ., Bar Counsel, The Florida Bar, Tallahassee, FL. 32301 and to CHARLES E. BARTLETT, ESQ., P. O. Box 732, Orange Park, FL. 32073, by U.S. Mail, properly stamped, this 13th day of February, A.D., 1986.



 Judicial Assistant