

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

FILED

SID J. WHITE

FEB 18 1986

CLERK, SUPREME COURT

By _____
Chief Deputy Clerk

THE FLORIDA BAR,
Complainant,

CONFIDENTIAL

v.

HAROLD LONG,
Respondent.

Case No. 67,339
(TFB No.'s 14-84N28, 14-84N27,
14-84N37, 14-84N30, 14-84N29,
14-84N19, 14-84N43, 14-84N44,
and 14-84N45)

REPORT OF REFEREE

I. Summary of Proceedings

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

On January 29, 1986, Respondent in this matter tendered a conditional guilty plea in exchange for the Bar's recommendation as to discipline. The Complaint, Conditional Guilty Plea, Joint Recommendation as to Discipline, transcripts and motions, all of which are forwarded to the Supreme Court of Florida with this report, constitute the record in this case.

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

After considering all the pleadings, I find:

1. That in Case No. 14-84N28, Respondent was retained by Ms. Sharon Norris (hereinafter referred to as Ms. Norris)

to handle a DUI case in October of 1983. Ms. Norris gave Respondent \$300.00 with a balance of \$200.00 to be paid within two weeks. Ms. Norris met with Respondent at the end of October 1983 and paid the remaining \$200.00 of the \$500.00 retainer. This was the last contact Ms. Norris had with Respondent. On December 15, 1983, an arrest warrant was issued for Ms. Norris for failure to appear on December 14, 1983 to answer the DUI charge. Respondent secured a court date for Ms. Norris, then failed to notify her. Respondent did not appear for his client on that court date and did no further work on her case. Ms. Norris discovered that Respondent had taken some steps to protect her interest and obtain substitute counsel but these steps were inadequate.

2. That in Case No. 14-84N27, Respondent met with Mr. and Mrs. Ira Dorn at his office. Ms. Dorn retained Respondent to represent her in a dissolution of marriage proceeding. Respondent was paid \$201.50 by check from Ms. Dorn. On October 4, 1983, Ms. Dorn returned with her husband to Respondent's office to sign the papers that Respondent had prepared for them. Respondent then told the Dorns to call him in two weeks concerning their court date. When Respondent was contacted two weeks later, he advised the Dorns that the divorce papers had not been completed, but that they would be ready one week later. Respondent then could not be reached through the month of November, 1983. On December 4, 1983, Respondent was finally reached by phone and requested that the Dorns call back one week later. On December 16, 1983, Respondent was contacted for the last time and advised the Dorns that the dissolution papers would not be ready until the first of the year. The Dorns subsequently discovered Respondent's phone had been disconnected and that his office was vacant. Respondent did not complete the dissolution and did not return the fee.

3. In Case No. 14-84N37, on August 11, 1983, Respondent was retained by Mr. Tomilio Leante (hereinafter referred to as Mr. Leante) to represent him in a dissolution of marriage proceeding. Respondent was paid a \$500.00 retainer which he represented to Mr. Leante that an additional \$500.00 would be needed to handle his divorce. This amount was paid to Respondent at that time. Through the next month, Respondent was difficult to reach. Several appointments were scheduled with Respondent at his office, but Respondent failed to keep these appointments. In October of 1983, Respondent could no longer be contacted or located. Mr. Leante's dissolution was not completed, and the fee was not returned.

4. In Case No. 14-84N30, Respondent was retained by Ms. Dorothy Stanley (hereinafter referred to as Ms. Stanley) to represent her in a child custody matter. A fee of \$500.00 was paid to Respondent. A short period later, when Ms. Stanley tried to reach Respondent by phone, a recorded message told her to contact a different attorney who already had possession of her file. In January of 1984, Ms. Stanley was contacted over the phone by Respondent. The Respondent told her that in order for her case to be completed, she would have to travel to Georgia and discuss it with him. When Ms. Stanley refused to do what Respondent requested, Respondent told her that her file was in the possession of another attorney who would complete the work for her. The matter for which Respondent was retained was not completed, and Respondent failed to return the \$500.00 retainer.

5. In Case No. 14-84N29, Respondent was retained to handle a legal matter for Mr. Donald Culver (hereinafter referred to as Mr. Culver) and a court date had been obtained. Mr. Culver missed his court date as a result of Respondent's failure to notify him, and Respondent did not appear for Mr. Culver on that date. While attempting to contact Respondent on a separate

legal matter, Mr. Culver found that Respondent no longer occupied his office and that he would have to obtain new counsel.

6. In Case No. 14-84N19, Respondent was retained by Mr. and Mrs. Michael Murphy (hereinafter referred to as the Murphys) to prepare and file bankruptcy papers. A fee of \$700.00 was paid to Respondent. In subsequent contacts with Respondent, the Murphys were given excuses for the work not being completed. Respondent advised the Murphys that he had no secretary to do the typing. On December 4, 1983, Respondent told the Murphys that he was going into partnership with another attorney and that the bankruptcy papers would be ready soon. On December 8, 1983, it was discovered that Respondent had left the Murphys file in possession of another attorney who instructed the Murphys that they could come to his office and pick it up. This attorney stated that he was not aware of any partnership with Respondent. Although the work was substantially completed, it was never filed and the \$700.00 fee was not returned.

7. In Case No. 14-84N43, Respondent was retained to handle a dissolution of marriage for a Ms. Kathy Hill (hereinafter referred to as Ms. Hill). Respondent was paid a retainer in the amount of \$313.50. Respondent failed to appear at hearings in Ms. Hill's behalf. When subsequently contacted by Ms. Hill, Respondent refused to return any of the retainer paid to him.

8. In Case No. 84-14N44, on October 13, 1983, Respondent was retained by Mrs. Mildred B. Glaze (hereinafter referred to as Mrs. Glaze) to handle a dissolution of marriage case. Respondent was paid a retainer of \$200.50 by Mrs. Glaze. Respondent failed to file a petition for dissolution of marriage or to take any other action on Mrs. Glaze's behalf. Respondent failed to return any of the unearned retainer to Mrs. Glaze. On several occasions, Respondent's speech was impaired as if he were under the influence of alcohol.

9. In Case No. 14-84N45, Respondent was retained to handle a dissolution of marriage for Mr. Thaddeus F. Majchrzycki (hereinafter referred to as Mr. Majchrzycki). Respondent was paid a retainer of \$226.50 to handle Mr. Majchrzycki's dissolution. Respondent failed to file a petition for dissolution of marriage or to take any other action in Mr. Majchrzycki's behalf.

III. Recommendation as to Whether the Respondent Should Be Found Guilty

I recommend that the Respondent's Conditional Plea of Guilty be accepted and specifically that he be found guilty of the following violations of the Code of Professional Responsibility:

- 1) DR 1-102(A)(1) (violation of a disciplinary rule);
- 2) DR 1-102(A)(6) (conduct adversely reflecting on his fitness to practice law);
- 3) DR 2-106 (A) (excessive fee);
- 4) DR 6-103 (A) (3) (neglect of a legal matter);
- 5) DR 7-101 (A) (2) (failure to carry out a contract of employment);
- 6) DR 9-102 (A) (failure to deposit client's funds into a trust account);
- 7) DR 9-102 (B) (4) (failure to promptly deliver to client funds which the client is entitled to receive);
- 8) Art. XI, Rule 11.02(4) of the Integration Rule of The Florida Bar.

IV. Recommendation as to Disciplinary Measures to Be Applied

I recommend that Respondent be disciplined by:

- A. A public reprimand by publication in the Southern Reporter.

B. Three years probation with the condition that Respondent file monthly reports with The Florida Bar to verify his continued voluntary alcohol rehabilitation.

C. Should a finding of probable cause involving alcohol abuse occur, the probation will terminate pursuant to Rule 11.10 of the Integration Rule of The Florida Bar.

D. Respondent to reimburse the clients Security Fund for any payments made arising from these cases.

E. Payment of costs in these proceedings in the amount of \$572.87.

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 the Respondent, to wit:

Age: 46

Date Admitted to the Bar: 12/2/68

Prior Discipline: None

Mitigating Factors:

1. During the time the above misconduct occurred, Respondent was suffering from a serious alcohol problem that resulted in his abandoning his practice and being hospitalized.

2. All complainants mentioned herein have been reimbursed for the fee paid to Respondent.

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 Costs

1. Administrative Costs	\$150.00
2. Bar Counsel Travel	39.50
3. Court Reporter	193.97
4. Service of Subpoenaes	27.00
5. Witness Fees	12.40

B. Referee Level Costs

1. Administrative Costs	150.00
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TOTAL \$572.87

It is recommended that such costs be charged to the 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 10 day of Feb 1986.

Bruce [Signature]
REFEREE

Copies to:

Susan V. Bloemendaal, Bar Counsel of The Florida Bar
Donald A. Smith, Counsel for Respondent