

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,
Complainant,
v.
JOEL KAUFFMAN,
Respondent.

FILED
APR 18 1986
CLERK SUPREME COURT
CONFIDENTIAL
Chief Deputy Clerk
Case No. 67,652
(TFB NO. 04B85N08)

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 occurred:

On September 17, 1985, The Florida Bar filed its complaint against Respondent. On March 14, 1986, a final hearing was held in Daytona Beach, Florida, on the charges contained within the complaint. The complaint herein and the transcript and exhibits 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

Upon agreement of the parties hereto and from the exhibits submitted, I find the following facts:

1. Respondent is, and at all times mentioned in this complaint was, a member of The Florida Bar, subject to the jurisdiction and disciplinary rules of the Supreme Court of Florida.

2. Sometime in April 1981, Respondent was retained by [REDACTED] [REDACTED] to seek a divorce from his wife. Mr. [REDACTED] was on emergency leave from the U.S. Navy and required the proceedings to be expedited.

3. Respondent only spoke with the husband who informed him that his wife wanted the divorce. The children of the marriage had been placed in emergency custody by the Department of HRS upon an allegation that they had been abandoned by their mother, [REDACTED] [REDACTED]

4. Respondent prepared a stipulation for the [REDACTED]s providing for custody of the children with the father and distribution of marital property. Both parties signed the stipulation agreement.

5. Respondent prepared documents entitled Authorization Agreement, Quit Claim Deed, and Answer and Waiver as part of these proceedings. *Each of which was signed by the wife. rmh*

6. The wife was told that she would be represented by another attorney named Albert Buschman, whose name appeared on the Answer and Waiver, Stipulation, and Authorization Agreement.

7. Respondent never contacted Mr. Buschman regarding his representing Mrs. [REDACTED] and never discussed the matter with him. Mr. Buschman never met Mrs. [REDACTED] or counseled her as to her rights regarding the documents she had executed.

8. Since Mr. [REDACTED] was on emergency leave, Respondent was required to obtain a waiver of the required twenty-day period after filing to have the divorce petition heard.

9. Respondent obtained a hearing time before the Honorable Thomas Oakley, Circuit Judge, Duval County, Florida, on May 1, 1981.

10. Shortly before the scheduled hearing, Respondent discovered that he had failed to have Mr. Buschman execute the wife's pleadings necessary to go forward with the dissolution.

11. Without contacting Mr. Buschman, Respondent signed Buschman's signature to the Stipulation and Answer and Waiver. Respondent failed to inform his client of this situation.

12. Respondent proceeded to hearing without informing the court of the forged documents and obtained a final judgment dissolving the [REDACTED]'s marriage.

13. After the hearing, Respondent contacted Mr. Buschman and informed him of what had transpired.

14. At the time of this incident, Respondent had only been practicing law in Florida for about a year. Mr. Buschman and Respondent were in the practice of referring clients to each other in noncontested dissolutions for stipulations and answer and waivers when required. Respondent's principal means of support presently is a full-time teaching position at the University of North Florida.

15. In July 1984, the ex-wife sought to vacate the Final Judgment of Dissolution based upon Respondent's actions of signing Mr. Buschman's name. As a result of this hearing, the Honorable Lawrence Fay found that the judgment was merely voidable, not void, and would have to be attacked by separate action. As of this time, no such action has been filed by the ex-wife.

16. Pursuant to an announcement by The Florida Bar, the allegation of Respondent not having witnessed the signing of the quit claim deed was withdrawn.

III. Recommendation as to Whether Respondent Should Be Found Guilty

Based upon the undisputed facts set forth above and upon the admissions of Respondent, 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 or misrepresentation.

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

DR 7-101(A)(3) - a lawyer shall not intentionally prejudice or damage his client during the course of the professional relationship.

IV. Recommendation as to Disciplinary Measures

In recommending the following discipline, consideration has been given to certain mitigation presented by Respondent. In mitigation, it was shown that Respondent had only been in active practice at this time for about one year, his present practice is limited to domestic and bankruptcy cases on a part-time basis, and that public discipline in this matter would result in Respondent losing his full-time teaching position at the University of North Florida. Respondent has shown remorse and freely admits his errors.

The complaining party in this matter was Judge Fay of Duval County, Florida. Judge Fay was heard from by conference call and informed the referee that he was concerned about Respondent's presenting forged documents to the court. Judge Fay felt that a six-month suspension would be appropriate discipline.

In view of all the above facts, I recommend the following discipline:

(A) Respondent should receive a private reprimand to be administered by Respondent's personal appearance before the Board of Governors of The Florida Bar.

(B) Respondent should be placed on two years' probation with the conditions that a reviewing attorney review Respondent's divorce cases prior to final hearing for six months and that Respondent be required to attend all CLE courses and seminars given by The Florida Bar for Family Law practice.

(C) Payment of costs in these proceedings.

VI. 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: 57 years old

Date admitted to the Bar: November 19, 1975

Prior discipline: Bar records reveal a grievance committee private reprimand in 1982 but Respondent does not remember such discipline.

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 Transcript Costs	146.84
3. Bar Counsel Travel	72.35

B. Referee Level

1. Administrative Costs	\$150.00
2. Court Report and Transcript Costs	301.00 <i>rnk</i>
3. Bar Counsel Travel	<u>205.00</u>

TOTAL *\$ 1,025.19 rnk*
~~\$1025.19~~

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 2 day of April 1986.

R. Michael Hutchinson
Referee

Copies to:

James N. Watson, Jr., Staff Counsel of The Florida Bar
Joel Kauffman, Respondent
Samuel S. Jacobson, Attorney for Respondent