

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,

Complainant,

v.

WALTER G. BELL,

Respondent.

CONFIDENTIAL
Sup. Ct. Case No.
67,925
(10A85C51)

FILED
SUPREME COURT

MAR 24 1986

CLERK, SUPREME COURT
By *pl*

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 Bar, hearing was held on January 16, 1985. The Pleadings, Notices, Motions, Orders, Transcripts and Exhibits all of which are forwarded to The Supreme Court of Florida with this report, constitute the record in this case.

The following attorneys appeared as counsel for the parties:

For The Florida Bar: David G. McGunegle
For The Respondent: Walter G. Bell, in pro se

II. Findings of Fact as to Each Item of Misconduct of which the Respondent is charged: After considering all the pleadings and evidence before me, pertinent portions of which are commented upon below, I find:

1. At all times material, respondent was a member of The Florida Bar, residing and practicing law in Winter Haven, Polk County, Florida.
2. In January 1983 Respondent prepared a revocation of power of attorney and a power of attorney on behalf of Inez Ulman upon the instructions of her son, Lee E. Garner. Mr. Garner represented that Ms. Ulman wished to revoke the previous power of attorney granted to her son, Jerome D. Ulman, and execute a power of attorney in favor of her other son, Lee Garner.
3. In April 1983, again upon the instruction of Mr. Garner, Respondent prepared a deed on behalf of Ms. Ulman which reserved a life estate in Ms. Ulman and granted the remainder interest to Lee Garner and his wife, Alicia.
4. In January 1983, as to the revocation and the power of attorney and in April 1983 as to the deed, Respondent advised Mr. Garner to deliver these documents to Ms. Ulman and secure her signature on each instrument. Mr. Garner did so and returned the executed documents to Respondent.

5. Respondent acknowledged these documents as Notary Public and signed as a witness. He also caused his secretary to sign the documents as a witness.
6. Respondent and his secretary, upon his direction, witnessed these documents although they were not present when the documents were signed by Ms. Ulman and could not, therefore, attest to the validity of her signature which conduct is prohibited by section 117.09(1) of the Florida Statutes and a second degree misdemeanor. All three of the improperly acknowledged and witnessed documents were filed by respondent in the official records in Florida
7. Subsequently, Jerome D. Ulman brought suit as guardian of Ms. Ulman against the Garners and were successful in having the deed cancelled (Circuit Court of the Tenth Judicial Circuit, in and for Polk County, Florida, Case No. 83-CP-830).
8. By letter to Mr. Ulman's counsel, Thomas M. Dryden, dated April 30, 1984, respondent admitted he had improperly acknowledged and witnessed the deed and had also caused his secretary to improperly sign as a witness.
9. Respondent is an experienced and longtime member of The Bar. He maintains that he was acting only as a "good samaritan" and that his conduct was not intended to be dishonest or deceitful as he was only furthering the interests of his client and without any personal benefit to himself. However, there is no excuse, for respondent's illegal misconduct.
10. Respondent's conduct is a blatant misuse of the notary public statute; misuse that unfortunately is apparently prevalent among the general public, and professionals including attorneys. If the court approves this Referee's recommended discipline, it is respectfully requested that the court comment on this apparent problem especially for guidance to members of the Bar and also the public. Both lawyer and non-lawyer notary publics must be warned that this misconduct will not be tolerated.

III. Recommendations as to whether or not the Respondent should be found guilty: As to the complaint I make the following recommendation as to guilt or innocence:

I recommend that the respondent be found guilty and specifically that he be found guilty of violating the following Integration Rules of The Florida Bar and/or Disciplinary Rules of the Code of professional Responsibility, to wit: Integration Rule, Article XI, Rule 11.02(3)(a) by engaging in conduct contrary to honesty, justice or good morals; Disciplinary Rules 1-102(A)(4) by engaging in conduct involving dishonesty, fraud, deceit or misrepresentation; 1-102(A)(6) by engaging in other misconduct reflecting adversely on his fitness to practice

law; 7-102(A)(5) by knowingly making a false statement of law or fact with respect to the acknowledgments and 7-102(A)(7) by counseling or assisting his client in conduct he knew to be illegal or fraudulent.

IV. Recommendation as to Disciplinary measures to be applied:

I recommend that the respondent receive a public reprimand by personal appearance before the Board of Governors of The Florida Bar and that respondent pay the costs incurred in this proceeding. In making this recommendation for a public reprimand I note that respondent is an experienced and long-time member of the Bar with no excuse for his misconduct from which he apparently did not directly benefit. Respondent is active in his community with a good reputation. I also note respondent has no prior disciplinary record; otherwise, a more severe discipline would be recommended by this referee.

V. Personal History and Past Disciplinary Record: After finding of guilty and prior to recommending discipline to be recommended pursuant to Rule 11.06(9)(a)(4), I considered the following personal history and prior disciplinary record of the respondent, to wit:

Age: 63

Date admitted to Bar: August 1950

Prior disciplinary convictions and disciplinary measures imposed therein: none

Other personal data: Married, with no dependent minor children.

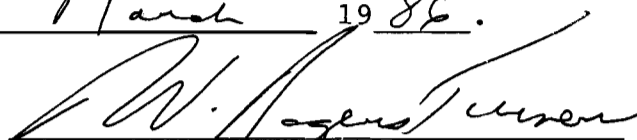
VI. Statement of costs and manner in which costs should be taxed:

I find the following costs were reasonably incurred by The Florida Bar.

A. Grievance Committee Level Costs	
1. Administrative Costs	\$150.00
2. Transcript Costs	276.00
3. Bar Counsel/Branch Staff Counsel Travel Costs	14.22
B. Referee Level Costs	
1. Administrative Costs	\$150.00
2. Final Hearing Transcript (1/16/86)	78.30
C. Miscellaneous Costs	
1. Telephone charges	\$ 3.60
TOTAL ITEMIZED COSTS:	\$672.12

It is apparent that other costs have or may be incurred. It is recommended that all such costs and expenses together with the foregoing itemized 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 20th day of March 19 86.


Honorable W. Rogers Turner
Referee

cc: David G. McGunegle, Bar Counsel
Staff Counsel, The Florida Bar, Tallahassee, Florida 32301
Walter G. Bell, Esq., 98 First St., N., Winter Haven, FL 33881