

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,
Complainant,
v.
BARBARA B. HUGHES,
Respondent.

CONFIDENTIAL

Case No. 68,855
(TFB 05886635)

FILED

SHO J. WHITE

DEC 17 1986

CLERK SUPREME COURT

By _____
Deputy Clerk

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, the enclosed 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: Jan K. Wichrowski

For The Respondent: 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. That on June 10, 1986, the Supreme Court of Florida appointed the undersigned as referee in the Complaint of The Florida Bar which requested that respondent be placed on the inactive list (Exhibits 1-4).

2. That on June 18, 1986, The Florida Bar submitted to this Referee a Motion to Compel the Mental Examination of

Respondent by a psychiatrist. There was no response from the respondent (Exhibit 5).

3. On June 25, 1986, The Florida Bar Staff Counsel notified respondent of the scheduled appointment for the mental examination by letter which was copied to the undersigned (Exhibit 6). Staff Counsel specifically offered the use of an investigator to provide transportation to respondent for the purpose of attending the appointment. No reply was received from respondent by Staff Counsel or the undersigned.

4. The original mental examination was scheduled for July 21, 1986, with Dr. Cunningham, 1027 West Main Street, Leesburg, Florida, 32748 (Exhibit 7).

5. Thereafter, respondent telephoned Dr. Cunningham and requested that the appointment be rescheduled to August 1, 1986, for her convenience. Therefore an Amended Order was issued by the undersigned on July 18, 1986 (Exhibit 8).

6. On July 31, 1986, respondent cancelled her appointment with Dr. Cunningham. Respondent scheduled another appointment Dr. Cunningham for August 14, 1986, at which she also failed to appear. Respondent failed to contact Staff Counsel, the undersigned, or Dr. Cunningham regarding setting up a new appointment or the cancellation.

7. Final Hearing in this cause was set for October 30, 1986, in Tavares, Lake County, Florida (Exhibit 9).

8. On October 30, 1986, The Florida Bar filed a Motion for Sanctions requesting that respondent be placed on the Inactive List for her failure to attend a mental examination as previously ordered by this Referee. The affidavit of Dr. Cunningham was attached, stating that respondent had failed to appear for three scheduled appointments (Exhibits 10 and 11).

9. On November 4, 1986, the undersigned granted The Florida Bar's Motion for Sanctions and therefore recommends to the Supreme Court of Florida that respondent be placed on the Inactive List of The Florida Bar (Exhibit 12).

10. In a handwritten letter to the undersigned (Exhibit 13) copied to The Florida Bar Staff Counsel and the Supreme Court of Florida and dated November 5, 1986, respondent stated among other statements that she requested counsel be appointed to represent her since she was without funds and that she be allowed to seek "neurological" evaluations. I find such requests should be denied since I am without authority to fund or to appoint counsel on Ms. Hughes behalf and Ms. Hughes apparently refuses to submit to a mental examination which would be relevant to this case.

11. Respondent has failed to act in a manner consistent with that of an attorney who is mentally capable of practicing law in this state. Further, the undersigned has reviewed the Court file (Exhibit 3) and the transcript of the grievance committee hearing (Exhibit 4) at which respondent was present and was given full opportunity to respond to the allegations of incompetency and finds that both of the above support a finding of incompetency.

III. Recommendations as to whether or not the Respondent should be found guilty:

It is therefore my recommendation to this Honorable Court that respondent be placed on the Inactive List until such time as she submits to a mental examination by a competent medical psychiatrist and Petitions for Reinstatement and makes a demonstration of her competency to practice law.

It is further my recommendation that should this Honorable Court find the foregoing facts to be insufficient upon which to require respondent's placement upon the Inactive List, that this matter be returned to the undersigned for further proceedings regarding that issue.

IV. Personal History and Past Disciplinary Record: Pursuant to the Integration Rules of The Florida Bar, Rule 11.06(9)(a)(4), I considered the following personal history and prior discipline record of the respondent, to wit:

Age: 56

Date Admitted to Bar: November 13, 1970

Prior discipline: None

V. 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	\$101.30
3. Bar Counsel/ Branch Staff Counsel Travel Costs	\$42.86

B. Miscellaneous Costs

1. Telephone Charges	\$1.72
2. Staff Investigator Expenses	\$65.11

TOTAL ITEMIZED COSTS: \$360.99

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 5th of December, 1986.


Frederick T. Pfeiffer
Referee

Copies to:

Jan Wichrowski, Bar Counsel, The Florida Bar, 605 East Robinson Street, Suite 610, Orlando, Florida, 32801
Barbara B. Hughes, Respondent, Post Office Box 646, Howey in the Hills, Florida, 32737
John T. Berry, Staff Counsel, The Florida Bar, Tallahassee, Florida, 32301