

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,

Complainant,

Supreme Court Case
No. 68,936

v.

LAURA R. MORRISON,

The Florida Bar Case
No. 17B86F24

Respondent.

REPORT OF REFEREE

I. SUMMARY OF PROCEEDINGS:

Respondent's Consent Judgment for Unconditional Guilty Plea and Entry of Final Order of Discipline and Waiver of Probable Cause Finding was tendered to The Florida Bar on June 9, 1986. The Florida Bar then filed a Petition for Approval of Consent Judgment with the Supreme Court of Florida on June 19, 1986. The undersigned was duly appointed as Referee in this cause by the Chief Justice of the Supreme Court of Florida by order dated July 8, 1986. A hearing was held on August 8, 1986 so that the Referee could be satisfied as to the providency of the plea and the appropriateness of the agreed disciplinary sanction. Upon due deliberation and being satisfied that the discipline set forth in Respondent's Consent Judgment is appropriate, this Referee has determined to approve Respondent's Consent Judgment and recommend its ultimate acceptance by the Supreme Court of Florida.

The following appeared for the respective parties:

On Behalf of The Florida Bar: Richard B. Liss, Esq.

On Behalf of Respondent: William C. Purcell, Esq.

II. FINDINGS OF FACT AS TO EACH ITEM OF MISCONDUCT OF WHICH RESPONDENT IS CHARGED:

1. Respondent was retained by the parents of Alan Ronald Kaye (hereinafter referred to as "Kaye") to prosecute an appeal of Kaye's criminal conviction after trial by jury in the United States District Court for the Eastern District of Oklahoma and subsequently for other unrelated legal matters.

2. Kaye's parents and Respondent entered into a formal written agreement regarding the aforesaid representation on July 6, 1984.
3. On or about August 14, 1984, the United States Court of Appeals for the Tenth Circuit received Respondent's Notice of Appearance as attorney for Kaye.
4. Various motions for extensions of time in which to file appellant's brief were submitted by Respondent and granted by the court.
5. Respondent's last motion for extension of time in which to file appellant's brief was received by the court on March 20, 1985 and an extension was granted to March 28, 1985.
6. The Office of the Clerk, United States Court of Appeals for the Tenth Circuit, does not have any record of Respondent filing appellant's brief by the March 28, 1985 deadline.
7. A deputy clerk of the court wrote Respondent on April 30, 1985 advising her that appellant's brief was overdue and that said brief must be filed on or before May 10, 1985.
8. Respondent was not made aware of the contents of the aforesaid letter thereby resulting in her not responding to same.
9. The court appointed the Federal Public Defender to represent Kaye in his appeal by order dated June 4, 1985.
10. Subsequent to the aforesaid appointment, Respondent learned for the first time that her brief had not been received by the court.
11. Respondent then caused to be sent a brief on behalf of Respondent which was accepted and filed by the court on June 24, 1985.
12. Respondent was absent from her office for substantial periods of time between March and June of 1985 which caused her to be unaware of communications from the court.
13. Respondent bore the ultimate responsibility to insure that the subject brief was mailed on a timely basis and also to insure its receipt by the court.
14. Respondent attended a hearing on January 22, 1986 conducted by Grievance Committee "B" of the Seventeenth Judicial Circuit to make inquiry into her handling of Kaye's appeal.
15. Respondent testified under oath at the hearing before said committee that appellant's brief had been mailed to the court on March 18, 1986.

16. Respondent offered to the committee, as proof of the aforesaid mailing, a United States Postal Service Express Mail receipt.

17. By letter dated January 24, 1986, Respondent, through counsel, recanted her previous testimony and admitted that the material mailed to the court on March 18, 1985 did not include appellant's brief and stated the correct mailing date for the brief was March 25, 1985.

18. Respondent knew or should have known, prior to so testifying, the exact date appellant's brief was mailed to the court since she was aware that the mailing date of appellant's brief was very material to the committee's inquiry.

19. Respondent also testified before the grievance committee, in essence, that upon learning the court had not ever received appellant's brief, she requested her staff prepare a substitute certificate of service page to be signed in her absence which was to accompany a copy of the brief believed to have been previously mailed to the court on March 25, 1985.

20. The brief actually received by the court on June 24, 1985, pursuant to the aforesaid directions, was an original rather than a copy.

21. Examination by an expert document examiner of the various briefs in Respondent's file and the court file resulted in her rendering an opinion that the brief received by the court on June 24, 1985 was an original document and the source document for the copy of the brief found in Respondent's file bearing a March 25, 1985 date on the certificate of service. However, it was also noted that a copy with an original signature could be considered an original brief.

22. Respondent cannot account for the discrepancy between her testimony, the contents of the court file and the document examiner's findings.

23. While it cannot be proven by clear and convincing evidence that Respondent was the party directly responsible for the aforesaid discrepancy, she still bears responsibility for the actions of her staff if any one of them was the responsible party.

III. RECOMMENDATION AS TO WHETHER RESPONDENT SHOULD BE FOUND GUILTY:

Respondent should be found guilty of violating the following

Disciplinary Rules of the Code of Professional Responsibility: Disciplinary Rules 3-104(D) [the delegated work of nonlawyer personnel shall be such that it will assist only the employing attorney and will be merged into the lawyer's completed product. The lawyer shall examine and be responsible for all work delegated to nonlawyer personnel], 1-102(A)(4) [a lawyer shall not engage in misconduct involving misrepresentation] and 6-101(A)(3) [a lawyer shall not neglect a legal matter entrusted to him].

IV. STATEMENT AS TO PAST DISCIPLINE AND PERSONAL HISTORY:

Respondent was admitted to The Florida Bar on May 22, 1980 and is 41 years of age. She has no previous record of any disciplinary sanction being imposed against her in Florida Bar disciplinary proceedings.

V. STATEMENT OF COSTS AND RECOMMENDATION AS TO THE MANNER IN WHICH COSTS SHOULD BE TAXED:

The undersigned finds the following costs were reasonably incurred by The Florida Bar and should be taxed against Respondent:

Administrative Costs at Grievance Committee Level (Fla. Bar Integr. Rule, art. XI, Rule 11.06(9) (a).....	\$150.00
Administrative Costs at Referee Level (Fla. Bar Integr. Rule, art. XI, Rule 11.06(9) (a)	\$150.00
Appearance Fee of Court Reporter and Transcripts:	
November 12, 1985	\$ 107.44
January 22, 1986	\$ 14.48
January 22, 1986	\$ 456.50
January 22, 1986	\$ 185.00
February 25, 1986	\$ 469.65.....\$1,233.07
Express Mail - reimbursement to United States Court of Appeals	\$10.75
Subpoena:	
Laura Lee Horan - Witness Fee.....	\$ 5.60
Document Examiner:	
February 26, 1986	\$ 550.00
March 19, 1986	\$ 100.00
March 31, 1986	\$ 100.00..... \$750.00
Copy Costs and Certification from United States Court of Appeals	\$27.00
Appearance Fee of Court Reporter and Transcript of August 8, 1986 Hearing	\$98.50
Bar Counsel Travel	\$21.24
<u>TOTAL</u>	\$2,446.16

VI. RECOMMENDATION AS TO DISCIPLINARY MEASURES TO BE APPLIED:

The undersigned finds that the agreed discipline is consistent with the Court's decision in The Florida Bar v. Lund, 410 So.2d 922 (Fla. 1982) and therefore recommends Respondent's Consent Judgment be accepted by the Supreme Court of Florida. Respondent should be suspended for a period of ten (10) days from the practice of law in this jurisdiction with automatic reinstatement at the conclusion of said period. Respondent should thereafter be placed upon probation for a period of one (1) year and as a condition of said probation be supervised by an attorney acceptable to The Florida Bar. Respondent should be required to meet at least once a month with her supervising attorney as part of the supervisory process and at that time submit a written report setting forth the status and action to be taken on all open files in her office. The supervising attorney should be required to report to The Florida Bar any failure by Respondent to comply with the terms and conditions of her probation which should then be processed in accordance with Fla. Bar Integr. Rule, art. XI, Rule 11.10(1).

Costs of these proceedings should be taxed against Respondent in the amount of Two Thousand Four Hundred Forty Six Dollars and Sixteen Cents (\$2,446.16) with execution to issue and with interest to accrue at a rate of twelve per cent (12%) on all costs not paid within thirty (30) days of entry of the Supreme Court's Final Order in this cause, unless time for payment is extended by the Board of Governors of The Florida Bar.

DATED this 2nd day of September, 1986 at West Palm Beach, Palm Beach County, Florida.



THOMAS E. SHOLTS, Referee

Copies furnished to:

Richard B. Liss, Attorney for Complainant
William C. Purcell, Attorney for Respondent