

IN THE SUPREME COURT OF FLORIDA  
(Before a Referee)

THE FLORIDA BAR,  
Complainant,  
v.  
BILLY D. SHANNON,  
Respondent.

CONFIDENTIAL

Case No. 69,224  
(TFB Case Nos. 07C85C61  
07C86C15  
07C86C31)

REPORT OF REFEREE

I. Summary of Proceedings: Pursuant to the undersigned being duly appointed as referee to conduct disciplinary proceedings herein according to the Rules of Discipline, hearings were held on February 3, 1987. The Pleadings, Notices, Motions, Orders, Transcripts and Exhibits all of which are forwarded to The Supreme Court of Florida with this report, constitutes the record in this case.

The following attorneys appeared as counsel for the parties:

For The Florida Bar	<u>Jan K. Wichrowski</u>
For The Respondent	<u>Sylvan A. Wells III</u>

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 on below, I find:

Pursuant to the Rules Regulating The Florida Bar, Rule 3-7.8(b), Rules of Discipline, respondent entered a Conditional Guilty Plea for Consent Judgment with the approval of The Florida Bar Staff Counsel, Bar Counsel, and the Designated Reviewer of the Board of Governors.

I approve respondent's plea as tendered:

As to Count I

Respondent pleads no contest with a consent to a judgment of guilt for the purpose of this disciplinary proceeding only.

I, the Referee, do therefore find:

1. The respondent, Billy D. Shannon, is and at all times hereinafter mentioned, was a member of The Florida Bar, subject to the jurisdiction and Rules of Discipline of The Supreme Court of Florida.
2. At all times material, respondent maintained his record Bar address in Volusia County, Florida.
3. In June, 1985, respondent violated the court ordered child visitation order in Case No. 82-250-CA-01, Division H, Volusia County, Florida. Respondent failed to return from visitation his 5 1/2 year old daughter, Heather Shannon, to Mrs. C. Lynn Canby, respondent's former wife and the child's mother on June 3rd as ordered. The child was finally returned to Mrs. Canby in March, 1986.
4. At no time did respondent personally contact the court of the child's mother to inform them of the child's whereabouts or to provide any other information.
5. Although criminal proceedings were initiated by the State of Florida, all charges have been dismissed and there are no pending criminal charges at this time.
6. On May 23, 1986, the Seventh Judicial Circuit Grievance Committee "C" unanimously found probable cause for further proceedings. Respondent did not attend the hearings.

As to Count II

Respondent pleads guilty as follows:

7. On November 24, 1985, Mr. Charles Lewis Parker, of 508 South Julia Street, DeLand, Florida, 32720, complained to The Florida Bar that respondent had abandoned his law practice and neglected Mr. Parker's divorce case. Mr. Parker stated that he had paid Mr. Shannon \$277.00 in fees and costs towards the divorce case and that respondent had failed to complete the divorce case and left the area in

June, 1985, without previously notifying him. Mr. Parker's file was one of 35 clients' files delivered to attorney Ray Biernacki by respondent in June, 1985, without prior permission from the clients.

8. On May 23, 1986, the Seventh Judicial Circuit Grievance Committee "C" unanimously found probable cause for further proceedings in this matter.

#### As to Count III

Respondent pleads guilty as follows:

9. In March, 1985, Mr. and Mrs. Jack Morris contracted with the respondent to purchase property at 220 West Wisconsin Avenue, DeLand, Florida, which was owned by respondent. Mancinik Realtors were involved in this transaction as the listing and selling agents retained by respondent.

10. Mr. Bill Mancinik complained to The Florida Bar that respondent had contracted with his realty company to act as the listing and selling agent for this property. On April 22, 1985, respondent presented Mancinik Realtors a standard Florida Bar form contract for sale and purchase. Without notice to Mr. Mancinik, respondent omitted a portion of the contract which the seller, respondent, agreed to pay the real estate broker's fee. When Mr. Mancinik noted this omission a few days later, respondent agreed to execute an addendum to the contract specifying this provision.

11. At the closing of this property transaction, respondent showed Mr. Mancinik an unsigned check payable for the realtor's services and told Mr. Mancinik that he would receive the check after final closing. After the final closing, Mr. Mancinik contacted the respondent and requested payment. Respondent told the realtor that he refused to pay for the services rendered.

12. As part of the financing arrangements in this transaction, respondent executed a demand to Mr. and Mrs. Harris for \$5,000.00. When payment was demanded, respondent refused and stated as grounds the purchasing contract, which respondent had drafted. Respondent prepared the sale closing statement, received the net proceeds from the buyers and

their lender, and recorded the deed, note, and mortgage in this transaction.

13. During the pendency of the above transaction, the buyers of the above named property, Mr. and Mrs. Jack Harris, retained respondent to act as their attorney regarding another property purchase. Respondent accepted the \$1,000.00 down payment to hold in escrow. The purchase ultimately was cancelled. Without authorization, respondent deducted his attorney fees of \$150.00 plus costs of \$3.00 from this amount before returning the balance to Mr. and Mrs. Jack Harris.

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

As to Count I

Pursuant to respondent's Conditional Guilty Plea for Consent Judgment, I the Referee, recommend that respondent be adjudged guilty as to Count I pursuant to respondent's plea of no contest with a consent to a judgment of guilt for the purpose of this disciplinary proceeding only.

I recommend that the respondent be found guilty and specifically that he be found guilty of violating the following Integration Rule of The Florida Bar, Rule 11.02(3)(a) for engaging in conduct contrary to honesty, justice, and good morals. I further find the violations of the following Rules of the Code of Professional Responsibility of The Florida Bar: 1-102(A)(4) for engaging in conduct involving fraud, misrepresentation, dishonesty, and deceit, and Rule 1-102(A)(6) for misconduct reflecting adversely on his fitness to practice law.

As to Count II

Pursuant to respondent's plea I recommend that respondent be adjudged guilty as to Count II as follows:

I recommend that the respondent be found guilty and specifically that he be found guilty of violating the following Disciplinary Rules of The Florida Bar's Code of Professional Responsibility: 1-102(A)(6) for conduct reflecting adversely on his fitness to practice law, and

Rule 7-101(A)(2) for failing to carry out a contract of employment entered into with a client for professional services.

As to Count III

Pursuant to respondent's plea I recommend that respondent be adjudged guilty as to Count III as follows:

I recommend that the respondent be found guilty and specifically that he be found guilty of violating the following Disciplinary Rules of The Florida Bar's Code of Professional Responsibility: 1-102(A)(6) for conduct reflecting adversely on his fitness to practice law, and Rule 9-102(A)(2) for failing to promptly pay or deliver to the client as requested by a client the funds/securities, or their properties in the possession of the lawyer which a client is entitled to receive.

- IV. Recommendation as to Disciplinary measures to be applied:  
Pursuant to respondent's Conditional Guilty Plea for Consent Judgment, I recommend that the respondent be suspended for a period of six months and thereafter until he shall prove his rehabilitation as provided in Rule 3-5.1(e) of the Rules of Discipline.

Pursuant to respondent's plea, I further recommend that this six month suspension be retroactive to 3 months before the date of the final order of the Supreme Court of Florida noting that respondent has not practiced law since 1985 and is not presently doing so.

- V. Personal History and Past Disciplinary Record: After the finding of guilty and prior to recommending discipline to be recommended pursuant to Rule 3-7.5(k)(4), I considered the following personal history and prior disciplinary record of the respondent, to wit:

Age: 46

Date admitted to Bar: May 10, 1974

Prior Disciplinary convictions and disciplinary measures imposed therein: The Florida Bar v. Shannon, 398 So.2d 453 (Fla. 1981) Public Reprimand

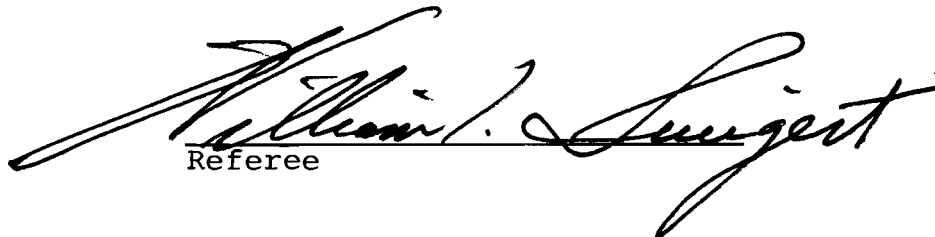
- VI. Statement of costs and manner in which costs should be taxed: I find the following costs were reasonably incurred by The Florida Bar.

A.	Grievance Committee Level Costs	
1.	Administrative Costs	\$150.00
2.	Transcript Costs	\$239.95
3.	Bar Counsel/Branch Staff Counsel Travel Costs	\$25.95
4.	Investigator's Expenses	\$45.00
B.	Referee Level Costs	
1.	Administrative Costs	\$150.00
2.	Transcript Costs	\$75.00
3.	Bar Counsel/Branch Staff Counsel Travel Costs	\$44.52
C.	Miscellaneous Costs	
1.	Telephone Costs	\$10.24

TOTAL ITEMIZED COSTS: \$740.66

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 3 day of March 19 87.

  
Referee

Copies to:

Bar Counsel  
Counsel for Respondent  
Staff Counsel, The Florida Bar, Tallahassee, Florida 32301