

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,
Complainant,

TFB #13B86H87

CASE NO: _____

v.

RUSSELL L. JOHNSON,
Respondent.

FILED

SID J. WHITE

MAY 5 1987

CLERK, SUPREME COURT

By _____
Deputy Clerk

COMPLAINT

THE FLORIDA BAR, complainant, files this Complaint against Russell L. Johnson, respondent, pursuant to article XI of the Integration Rule and Rule 3-3.2(a) Rules of Discipline of the Supreme Court of Florida alleging:

1. The respondent is, and at all times mentioned was, a member of the Florida Bar, subject to the jurisdiction and Disciplinary Rules of the Supreme Court of Florida.

2. On March 3, 1985 Steven Bristol was involved in an automobile accident with another vehicle. The individual in the other car was fatally injured in the accident.

3. Mr. Bristol had been drinking prior to the accident and, was aware that serious criminal charges might be forthcoming.

4. He decided to retain an attorney in anticipation of the criminal charges, as a direct result of respondent's advertisement in the St. Petersburg Times stating, "Low cost fees - Call Russ Johnson".

5. Mr. Bristol contacted the respondent regarding legal representation. Respondent told Mr. Bristol that he would handle the criminal charges, should they be forthcoming.

6. Respondent informed Mr. Bristol that his fee was \$2,500 for a charge of vehicular homicide and \$3,500 for a charge of manslaughter committed while driving under the influence. Following the initial meeting, respondent spoke with two other attorneys who quoted fees of \$5,000.00 to \$6,000.00 to be paid up

front.

7. In reliance on the fees quoted by respondent in Paragraph Six and on respondent's agreement to take the fee in payments, Mr. Bristol retained respondent and paid him a downpayment of \$700.00.

8. At the time he was hired, respondent did not inform Mr. Bristol that he was not a trial attorney and would not be willing to take his case to trial. He failed to tell Mr. Bristol that the fees referenced in Paragraph Six would apply only if Bristol was willing to enter a guilty plea to the forthcoming criminal charges.

9. Immediately after his initial meeting with respondent, Mr. Bristol was officially charged with manslaughter committed while driving under the influence of alcohol.

10. On April, 1985, respondent attended a bond hearing on behalf of Mr. Bristol. A pretrial conference was set for June 17, 1985. Respondent informed Mr. Bristol that an appearance was not necessary as the hearing was continued to a future date.

11. On June 17, 1985, when Mr. Bristol contacted the judge's secretary to confirm the fact that the scheduled hearing was continued, he was informed that the hearing had not been continued and that his presence in court was required. At that time respondent was unavailable as he was on vacation, therefore, Mr. Bristol was forced to appear at the pretrial conference without counsel.

12. The pretrial conference continued until July 27, 1985, when both respondent and Mr. Bristol were in attendance.

13. During the pretrial conference, respondent informed Mr. Bristol that the State of Florida was seeking his incarceration. Mr. Bristol informed respondent that he would not enter a plea of guilty to the charges if the State was recommending incarceration. Further, he stated to respondent that he wanted a jury trial.

14. At that point, respondent informed Mr. Bristol that he

was not a trial attorney, and, therefore, could not represent him through trial.

15. Subsequently, respondent withdrew as counsel for Mr. Bristol.

16. Up until the date of withdrawal, Mr. Bristol had paid respondent the sum of \$2,600 towards respondent's quoted fee of \$3,500.

17. The \$3,500 fee charged by respondent was excessive, as he did not provide his client with any legal services other than an attendance at the arraignment/bond hearing. Respondent did not perform any pretrial discovery to determine the strength of the State's case, nor did he prepare an adequate defense for his client.

18. Respondent knew or should have anticipated that a trial was imminent in Mr. Bristol's case due to the serious nature of the offense charged and the fact that Mr. Bristol had two (2) prior convictions driving under the influence of alcohol.

19. Respondent misrepresented to his client that he could handle his criminal case and failed to make clear that the \$3,500.00 was to represent him only if he pled guilty to the criminal charges.

20. By reason of the foregoing, respondent has violated the following Disciplinary Rules of the Florida Bar Code of Professional Responsibility:

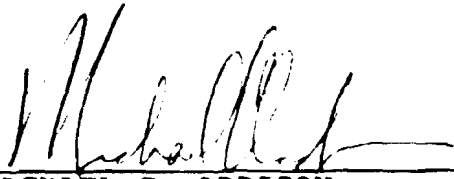
DR 1-102(A)(4) (conduct involving deceit, dishonesty, fraud or misrepresentation).

DR 2-106(A)(1) (charging or collecting a clearly excessive fee).

DR 6-101(A)(1) (handling a legal matter an attorney knows or should know he is not competent to handle).

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

WHEREFORE, The Florida Bar respectfully prays that respondent be appropriately disciplined.




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Thirteenth Judicial Circuit
Grievance Committee B
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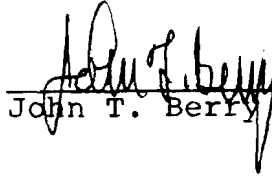
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished to RUSSELL L. JOHNSON, respondent, at his record Bar address, 9326 Floriland Mall, Tampa, FL 33612, by Certified Mail #P 344 820 625, Return Receipt Requested, on this 5th day of MAY, 1987.



John T. Berry