

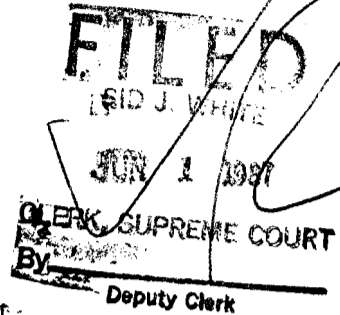
IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,
Complainant,

v.

RUSSELL L. JOHNSON,
Respondent.

Case No. 70,496
TFB #13B86H87



RESPONSE TO PETITION

COMES NOW THE FLORIDA BAR, Complainant, by and through its undersigned attorney, and files this Response to Petition filed in the Supreme Court of Florida on May 13, 1987. As to the allegations set forth by RUSSELL L. JOHNSON, respondent, in his Petition, complainant responds as follows:

1. Rule 3-7.1 of the Rules of Discipline provides that upon the filing by Staff Counsel in the Supreme Court of Florida of a formal complaint for other than minor misconduct the record shall become public information. Any alleged harm suffered by respondent as a result of this mandatory provision is unfortunate, but it does not constitute grounds for this Court to waive the provisions of Rule 3-7.1 in the present case.

2. Respondent asks this Court to defer appointment of a referee and/or trial by referee in this case, yet he fails to make a specific request for an alternative disposition of the matter. In addition, respondent has cited no authority for this Court to defer the appointment of a referee in this case.

3. Respondent asks this Court to stay all proceedings and filing of responsive pleadings in this case, yet he fails to make a specific request for an alternative disposition of the matter. Respondent has cited no authority for this court to stay these proceedings.

4. A) Complainant admits the allegations contained in respondent's Petition in paragraph 4 A.

B) Integration Rule 11.04(3), which governed the conduct of disciplinary proceedings at the time these proceedings

were initiated against respondent, provides that the accused "be advised in general terms of the nature of the conduct being investigated". Respondent, by his own admission, was fully aware of the nature of the complaint filed against him and, in fact, he responded to said complaint in writing. See Exhibit 1.

C) Respondent cannot at this late date claim any hardship based upon his failure to attend a grievance committee hearing. Respondent's presence was requested and he chose not to attend.

D) Integration Rule 11.04(2)(C) provides that the findings, judgment or decree of any court in civil proceedings shall not necessarily be binding in a disciplinary proceeding. Therefore, the fact that respondent was the prevailing party in the civil suit initiated by Mr. Bristol is not binding on this Court.

E) All the matters set forth in respondent's Petition paragraph E, subparagraphs 1-5, are factual disputes that form the basis of complainant's complaint against respondent. These issues are the heart of the present case and, since the grievance committee has found probable cause on these issues, they are best left to resolution by a referee appointed by this court.

F) The matters set forth in paragraph F of respondent's Petition are in the nature of affirmative defenses that may be plead and argued by respondent at the appropriate time in these proceedings.

WHEREFORE, complainant prays that this court deny respondent's Petition and appoint a referee to conduct a trial in this matter.

Respectfully submitted,



RICHARD A. GREENBERG
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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, 9326 Floriland Mall, Tampa, FL 33612 by Certified Mail #P 344 820 726 Return Receipt Requested and John T. Berry, The Florida Bar, 600 Appalachee Parkway, Tallahassee, FL 32301-8226.


Richard A. Greenberg