

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,
Complainant,
v.
ENID J. RIBOWSKY-CRUZ,
Respondent.

Supreme Court
Case No. 71,344
The Florida Bar File
No. 87-24,532 (11E)
No. 87-24,516 (11E)
No. 87-24,525 (11E)
No. 87-24,530 (11E)

REPORT OF REFEREE

I. SUMMARY OF PROCEEDINGS: By Pursuant to the undersigned being duly appointed as referee, to conduct disciplinary proceedings herein according to Chapter 3, Rules Regulating The Florida Bar, a hearing was held on February 29, 1988, at the Broward County Courthouse, Fort Lauderdale, Florida. Although venue would normally be in Dade County, the Respondent could not be located, and Bar Counsel requested that venue be waived and the final hearing be at Broward County. If Respondent would have objected, the proceeding would have been at Dade County. Since Respondent could not be found, the Referee considered venues being waived.

Paul A. Gross of Miami, appeared as Bar Counsel for The Florida Bar. There was no appearance on behalf of the Respondent.

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

After considering all the pleadings and the evidence, pertinent portions of which are commented upon below, this Referee finds as follows:

The Florida Bar mailed the Complaint and Request for Admission by certified mail to Respondent's official Bar address. However, the evidence shows that the Respondent moved and left no forwarding address. Since Respondent did not reply to the Request for Admissions, in accordance with

Rule 1.370(a), Florida Rules of Civil Procedure, the matters contained in said Request for Admissions were deemed as being admitted.

The Florida Bar made a diligent search in an effort to locate the Respondent. The testimony of Enrique T. Torres, Staff Investigator, concerning his efforts to find the Respondent, is on pages 4-16, of Bar Exhibit #3, Grievance Committee transcript. The grievance committee record is admissible when Respondent defaults. The Florida Bar v. Junkin, 89 So.2d 481(Fla. 1956) and The Florida Bar v. Schneider, 285 So.2d 392 (Fla. 1973). According to Rule 3-7.10(b), Rules Regulating The Florida Bar, "Each member of The Florida Bar is charged with notifying The Florida Bar of a change of mailing address or military status." An affidavit, Bar Exhibit 1, shows the current official address of the Respondent.

According to Rules Regulating The Florida Bar, Rule 3-7.10(b), the

mailing of registered or certified papers or notices prescribed in these rules to the last mailing address of an attorney as shown by the official records in the office of the Executive Director of The Florida Bar shall be sufficient notice and service unless this Court shall direct otherwise.

The undersigned Referee finds sufficient notice and service in accordance with the foregoing authorities.

A summary of the facts in these proceedings are as follows:

COUNT I

[Florida Bar File No. 87-24,532(11E)]

John Collins retained Respondent during January 1987 to represent him and his family in an immigration matter. Respondent was given passports and other important papers. The Respondent abandoned her law practice, did not complete the matters for which she was retained and never returned the passports and other documents to Mr. Collins.

COUNT II

[Florida Bar File No. 87-24,516(11E)]

During August 1986, Bayardo Pena retained Respondent to represent him in an immigration matter. Mr. Pena paid the

Respondent three thousand (\$3,000.00) dollars, for said representation. Because Respondent abandoned her law practice, she did not accomplish the matter for which she was retained and did not refund the \$3,000.00 to Mr. Pena.

COUNT III

[Florida Bar File No. 87-24,525(11E)]

During January, 1987, Lovian Sanchez gave Respondent a \$200.00 retainer to represent her in a dissolution of marriage case. Because the Respondent abandoned her law practice, she did not complete the representation for which she was retained. Also, Respondent did not refund the \$500.00.

COUNT IV

[Florida Bar File No. 87-24,530(11E)]

During February, 1987, Mr. and Mrs. Alvaro Velasquez retained the Respondent to represent them in a deportation hearing. The Respondent was paid \$500.00 by Mr. and Mrs. Velasquez.

The Respondent failed to appear at the scheduled hearing and she did not complete the representation for which she was retained. Also, Respondent did not refund the \$500.00.

III. RECOMMENDATION AS TO WHETHER OR NOT THE RESPONDENT SHOULD BE FOUND GUILTY:

As to each Count of the Complaint, the undersigned Referee makes the following recommendations as to guilt or innocence:

As to Count I

It is recommended that the Respondent be found guilty and specifically that she be found guilty of the following violations of the Rules Regulating The Florida Bar: Rule 4-1.3 (a lawyer shall act with reasonable diligence and promptness in representing a client).

Rule 4-1.4(a) (a lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information).

Rule 4-1.16(b) (a lawyer may withdraw from representing a client if withdrawal can be accomplished without adverse effect on the interests of the client.

Rule 4-1.16(d) (upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interest, such as giving reasonable notice to a client, allowing time for employment of other counsel, surrendering papers or property to which the client is entitled and refunding advance payment of fee that has not been earned.

As to Count II

It is recommended that Respondent be found guilty and specifically that she be found guilty of violating the following Rules Regulating The Florida Bar:

Rule 4-1.3
Rule 4-1.4(a)
Rule 4-1.16(b)
Rule 4-1.16(d)

As to Count III

It is recommended that the Respondent be found guilty and specifically that she be found guilty of the following violations of the Rules Regulating The Florida Bar:

Rule 4-1.3
Rule 4-1.4(a)
Rule 4-1.16(b)
Rule 4-1.16(d)

As to Count IV

It is recommended that the Respondent be found guilty and specifically that she be found guilty of the following violations of the Rules Regulating The Florida Bar:

Rule 4-1.3
Rule 4-1.4(a)
Rule 4-1.16(b)
Rule 4-1.16(d)

IV. RECOMMENDATION AS TO DISCIPLINE

The undersigned referee recommends that the respondent be disbarred.

It is the view of this referee, that neglect of entrusted legal matters and abandonment of a law practice without giving notice to clients warrants disbarment. See The Florida Bar v. Montgomery, 412 So.2d 346 (Fla. 1982).

V. PERSONAL HISTORY AND PAST DISCIPLINARY RECORD

The Respondent was born in 1947 and was admitted to The Florida Bar during 1981. She has no record of prior discipline. Bar Counsel believes Respondent is also a member of the New York Bar.

VI. STATEMENT OF COSTS AND MANNER IN WHICH COSTS SHOULD BE TAXED

The undersigned Referee finds the following costs were reasonably incurred by The Florida Bar and recommends such costs be charged to the respondent.

Administrative Costs \$ 300.00

[(Rule 3-7.5(k)(1))]

Court Reporter Costs:

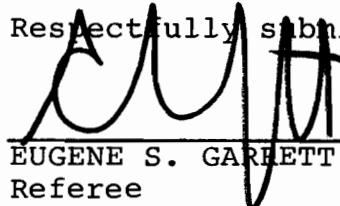
8/13/87 -Grievance Committee Hearing	\$ 291.80
2/29/88 -Referee Hearing	\$ 77.50
Travel Expenses of Bar Counsel	\$ 17.95

Total Costs \$ 687.25

This referee further recommends that execution issue with interest at the rate of twelve percent (12%) per year to accrue on all costs not paid within thirty (30) days of entry of this court's final order, unless time for such payment is extended by the Board of Governors of The Florida Bar.

Dated this 9th day of March, 1988.

Respectfully submitted,



EUGENE S. GARRETT
Referee
Room 1010, Broward County
Courthouse
Ft. Lauderdale, Florida
33301
(305) 357-7757

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this ____ day of March, 1988,
I caused to be mailed the foregoing Report of Referee to the
following:

Paul A. Gross
The Florida Bar
444 Brickell Ave.,
Suite 211
Miami, Florida 33131

Enid J. Ribowsky-Cruz
1251 S.W. 20th Street
Miami, Florida 33145

John T. Berry, Staff Counsel
The Florida Bar
Tallahassee, Florida 32301-8226

EUGENE S. GARRETT
Referee