

IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR,

Complainant,

v.

DOROTHY M. WALKER,

Respondent.

Supreme Court Case No. 71,954

TFB File Nos.: 83-30,264 (19),
87-27,737 (19), 87-26,163 (15B) and
88-50,016 (15B) and 88-50,076 (15B).

ED J. WHITE

MAY 9 1988

CLERK SUPREME COURT

Deputy Clerk

REPORT OF REFEREE

I. SUMMARY OF PROCEEDINGS:

The undersigned was appointed as the referee to preside in the above disciplinary action by order of this Court dated March 7, 1988. The pleadings and bar's application for judgment on the pleadings which are forwarded to the Court herewith, constitute the entire record in this case.

The bar was represented by David M. Barnovitz, Assistant Staff Counsel. Respondent defaulted at every stage of the proceedings.

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

Upon respondent's default in responding to the bar's requests for admissions, the bar made application for judgment on the pleadings which I granted. The effect thereof was to find each and every allegation of the bar's complaint to be admitted by the respondent. I accordingly find as follows:

A. At all times hereinafter mentioned the respondent was and remains a member of The Florida Bar subject to the disciplinary rules and jurisdiction of the Supreme Court of Florida.

With respect to Count I of the bar's complaint, I find:

B. In or about March, 1987, respondent undertook representation of one [REDACTED] A [REDACTED] B [REDACTED] (hereinafter called "B [REDACTED]") in connection with two (2) criminal cases pending against Brufil.

C. Respondent requested and received retainers totaling \$1,500.00 from B [REDACTED]

D. After being retained respondent filed a notice of appearance in both criminal matters, prepared certain preliminary documents including the filing of a motion for bond reduction.

E. Some time after filing the application for bond reduction, but before the bond reduction hearing, respondent disappeared without contacting Brufil and without providing any means for B█████ to contact her.

F. As a result of her disappearance and failure to attend the bond reduction hearing B█████ was required to retain the services of another attorney.

G. Respondent failed and refused to refund to B█████ any of the \$1,500.00 retainers received by her from B█████ despite written communications to her at her record bar address demanding such refund.

With respect to Count II of the bar's complaint, I find:

H. On or about April 3, 1987 respondent undertook representation of D█████ T█████ and M█████ T█████ his wife (hereinafter called "T█████") in connection with an eviction proceeding.

I. Respondent requested and received a retainer in the sum of \$500.00 from the T█████

J. A hearing was set for April 10, 1987 in the eviction proceeding at which time a motion for continuance was made on behalf of the tenant who the T█████ sought to evict. The continuance was granted and a hearing was scheduled for April 21, 1987.

K. On or about April 15, 1987 respondent informed the T█████ that she was leaving the United States but would return in time for the April 21, 1987 hearing.

L. Respondent failed to attend the April 21, 1987 hearing and has since failed to communicate her whereabouts to the T█████ despite numerous inquiries made by the T█████

M. As a result of the foregoing the eviction case filed by the T█████ was dismissed, without prejudice.

With respect to Count III of the bar's complaint, I find:

N. On or about April 14, 1987 respondent retained the services of Steven T. Green, Esquire, a Florida attorney, for the purposes of representing respondent's brother in connection with certain criminal charges then pending against respondent's brother.

O. Pursuant to agreement, respondent issued her check #216 dated April 14, 1987 to Attorney Green's order in the sum of \$5,000.00 drawn on the Bank of Belle Glade.

P. At the time respondent issued such check there were insufficient funds in her account to cover the same and the check was returned for insufficient funds.

Q. Respondent has failed to make the check good despite written demands directed to her record bar address that she do so.

R. In reliance upon the issuance of such check attorney Green rendered legal services on behalf of respondent's brother.

With respect to Count IV of the bar's complaint, I find:

S. Heretofore in or about the Spring of 1987, respondent's brother, one Ralph W. Walker, was the defendant in a criminal case entitled State of Florida v. Ralph W. Walker, Case No. 86-8967CFA02 which was assigned to the Honorable Don C. Adams, County Court Judge.

T. Upon the failure by the said Ralph W. Walker to appear at certain hearings set by the court, the Honorable Don C. Adams issued a capias to have Mr. Walker brought into court.

U. Thereafter, Judge Adams contacted respondent and discussed her brother's situation with respondent.

V. Respondent represented to Judge Adams that she would retain the services of an attorney to represent her brother and make payment to such attorney for such representation.

W. Subsequently, respondent attended before Judge Adams and represented to him that she had, in fact, retained an attorney to represent her brother and had, in fact, made payment to such attorney as previously represented to the court.

X. At the time respondent made such representation to Judge Adams she had neither retained nor paid an attorney to represent her brother.

Y. In reliance upon respondent's representation, Judge Adams withdrew the capias and warrant which he had previously ordered to be issued for the arrest of respondent's brother.

Z. As a result of respondent's misrepresentations to Judge Adams respondent was prohibited from thereafter appearing before Judge Adams.

With respect to Count V of the bar's complaint, I find:

AA. Heretofore on or about April 20, 1987 respondent issued a check in the sum of \$50.00 bearing number 605 and drawn on her attorney's trust account maintained at the Bank of Belle Glade to the order of the Hendry County Sheriff's Department in payment for service of process.

BB. The check was returned for insufficient funds.

With respect to Count VI of the bar's complaint, I find:

CC. In or about July, 1985, one V██████ H██████ (hereinafter called "H██████") retained respondent to represent H██████'s fiancée, one R██████ A██████ (hereinafter called "A██████") in connection with having A██████ credited with certain "gain time" from a jail sentence then being served by A██████.

DD. At respondent's request H██████ paid to her the sum of \$750.00.

EE. Respondent thereafter failed to take any action on behalf of A██████ who lost 180 days of gain time respondent was to have attempted to have reduced from his sentence.

With respect to Count VII of the bar's complaint, I find:

FF. Respondent has abandoned her law practice and clients and has disappeared without reporting her whereabouts to The Florida Bar or affording to her clients any manner of communication with respondent.

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

I make the following recommendations with respect to the violations charged by the bar:

With respect to Count I of the bar's complaint:

By failing to fulfill her agreement to represent B██████ in the two (2) criminal matters pending against him and disappearing without contacting B██████ or providing any means for him to contact her and by failing to attend the hearing upon the application for bond reduction respondent violated the following Rules of Professional Conduct, to wit: Rule 4-1.3 which provides that a lawyer shall act with reasonable diligence and promptness in representing a client; Rule 4-1.4(a) which provides that 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(d) which provides that upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interest; Rule 4-1.2 which provides that a lawyer shall make reasonable efforts to expedite litigation consistent with the interests of the client and Rule 4-8.4(d) which provides that a lawyer shall not engage in conduct that is prejudicial to the administration of justice.

4-3.2

By charging retainers in the sum of \$1,500.00 and thereafter failing to fulfill her obligations to perform the services for which the retainers were paid respondent violated the following Rules of Professional Conduct, to wit: Rule 4-1.5(a) and (b) which provides that a lawyer shall not enter into an agreement for, charge, or collect an illegal or clearly excessive fee; and Rule 4-8.4(c) which provides that a lawyer shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

With respect to Count II of the bar's complaint:

By abandoning the T [REDACTED] and failing to fulfill her obligations undertaken in connection with representing the T [REDACTED] in the eviction proceeding, aforesaid, and failing to refund to the T [REDACTED] the retainer paid by them or any part thereof, respondent has violated the following Rules of Professional Conduct, to wit: Rule 4-1.3 which provides that a lawyer shall act with reasonable diligence and promptness in representing a client; Rule 4-1.4(a) which provides that a lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information; Rule 4-1.5(b) which prohibits an attorney from charging a clearly excessive fee; Rule 4-1.16(d) which provides that upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interest; Rule 4-3.2 which provides that a lawyer shall make reasonable efforts to expedite litigation consistent with the interests of the client and Rule 4-8.4(c) which provides that an attorney shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

With respect to Count III of the bar's complaint:

By issuing a worthless check, as aforesaid, respondent has violated Rule 4-8.4(c) of the Rules of Professional Conduct which provides that an attorney shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

With respect to Count IV of the bar's complaint:

By making misrepresentations to a court, as aforesaid, respondent violated Rules 4-8.4(c) and (d) of the Rules of Professional Conduct which provide that a lawyer shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation and shall not engage in conduct that is prejudicial to the administration of justice.

With respect to Count V of the bar's complaint:

By issuing a worthless check on her trust account respondent has violated Rule 4-8.4(b) of the Rules of Professional Conduct which provide that a lawyer shall not commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects and has violated Rule 4-8.4(c) of the Rules of Professional Conduct which provides that an attorney shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

With respect to Count VI of the bar's complaint:

As a result of respondent's failure to perform respondent violated Disciplinary Rule 6-101(A) (3) of the Code of Professional Responsibility which provides that an attorney shall not neglect a legal matter entrusted to her and Rules 4-1.3 and 4-1.4 of the Rules of Professional Conduct which provide that a lawyer shall act with reasonable diligence and promptness in representing a client and shall keep a client reasonably informed about the status of a matter.

With respect to Count VII of the bar's complaint:

In addition to the violations hereinabove alleged respondent has violated Rule 1-3.3 of the Rules Regulating The Florida Bar which provides that each member of the bar shall promptly notify the executive director of any changes in any information required concerning a member's record bar address and telephone number.

IV. RECOMMENDATIONS AS TO DISCIPLINARY MEASURES TO BE APPLIED:

I recommend as discipline for the violations hereinabove enumerated that respondent be DISBARRED.

V. PERSONAL HISTORY:

Respondent was admitted to The Florida Bar on February 18, 1981 and is 33 years of age.

VI. STATEMENT AS TO PAST DISCIPLINE:

Respondent has no prior discipline record with The Florida Bar.

VII. STATEMENT OF COSTS OF THE PROCEEDINGS AND RECOMMENDATIONS:

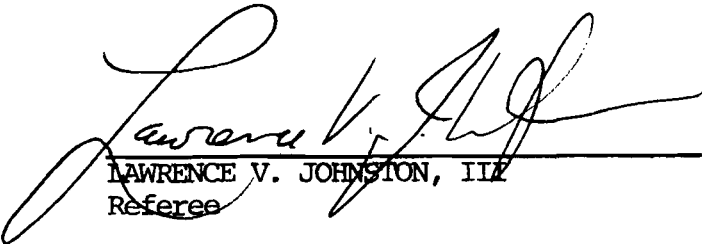
The costs of these proceedings were as follows:

Administrative Costs:

19th Judicial Circuit Grievance Committee	—\$ 150.00
15th Judicial Circuit Grievance Committee	— 150.00
<u>TOTAL</u>	-----\$ 300.00

I recommend that such costs be taxed against the respondent.

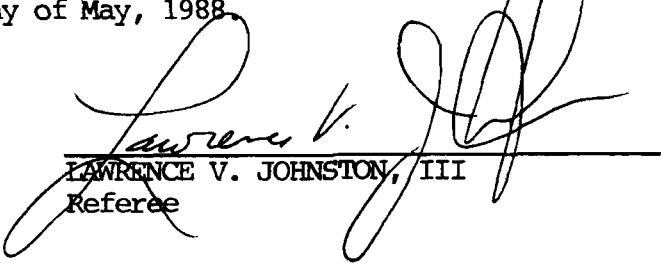
RENDERED this 5 day of May, 1988 at Rockledge, FL.



LAWRENCE V. JOHNSTON, III
Referee

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing report of referee was furnished to Dorothy Mae Walker, respondent, at her official record bar address of 349 Southeast 3rd Street, Belle Glade, FL 33430 and to David M. Barnovitz, Assistant Staff Counsel, The Florida Bar, 5900 North Andrews Avenue, Suite 835, Ft. Lauderdale, FL 33309 by regular mail on this 5 day of May, 1988.



LAWRENCE V. JOHNSTON, III
Referee