

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,

Complainant,

Case No. 72,071
[TFB Case No. 88-30,143(18C)]

v.

ERIC R. JONES,

Respondent.

REPORT OF REFEREE

- I. Summary of Proceedings: Pursuant to the undersigned being duly appointed as referee to conduct disciplinary proceedings herein according to the Integration Rule and The Rules Regulating The Florida Bar, a hearing was held on August 2, 1988. The Pleadings, Notices, Motions, Orders, Transcripts and Exhibits all of which are forwarded to The Supreme Court of Florida with this report, constitute the record in this case.

The following attorneys appeared as counsel for the parties:

For The Florida Bar - John B. Root, Jr.

For The Respondent - No appearance

- 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:

1. On March 28, 1988, The Florida Bar filed a Request for Admissions in this case. It was sent to the respondent by certified mail, return receipt requested. The receipt indicated that it was received by the respondent on March 30, 1988. The respondent did not respond to the Requests for Admission which were therefore deemed to be admitted in their entirety pursuant to Fla.Civ.R.P. 1.370(a).

2. Respondent was retained on October 23, 1985, by [REDACTED] to seek a modification of the final judgment in the dissolution of her marriage which occurred on January 30,

1979. She wished to collect past alimony and attorney's fees owed by her former husband and to increase the amount of alimony payments.

3. The respondent was paid a total of \$816, \$500 of which constituted a retainer.

4. Respondent filed a petition for modification of the final judgment of dissolution of marriage on or about May 20, 1986.

5. When Ms. [REDACTED] heard nothing further from the respondent, she became concerned as to the status of her case. Each time she called the respondent's office to inquire, she was told to come in and discuss it. She was reluctant to do so as she was billed for these consultations. She finally sent a letter on or about July 27, 1987, by registered mail, return receipt requested, to inquire as to the status of her case. Respondent's secretary signed for the letter on July 28, 1987. However, Ms. [REDACTED] never received a response.

6. In or around December, 1987, Ms. [REDACTED] consulted another attorney regarding her case. At that time she learned that a motion to dismiss for failure to prosecute had been filed on November 16, 1987. A hearing was scheduled for December 28, 1987. The respondent was not listed as counsel although he had not submitted a motion for leave to withdraw.

7. Notwithstanding the fact that Ms. [REDACTED] appeared at the hearing on her own behalf. The case was dismissed on December 29, 1987.

8. Respondent has refused to cooperate with the Bar proceedings. He failed either to appear or send counsel to the grievance committee hearing on January 25, 1988, although he was aware of the date of the proceedings. He had been present at the hearing in November, 1987, when the matter was rescheduled. He was formally noticed by certified mail, return receipt requested, which his secretary signed for on December 2, 1987.

9. The respondent failed either to appear or send counsel to the final hearing held before the undersigned on August 2, 1988. The notice of final hearing was sent to his record bar address on June 29, 1988, by certified mail, return receipt requested. The notice was signed for on June 30, 1988. I find the respondent has shown the same callous

disregard for these proceedings as he had shown for his client. Although the respondent has no prior disciplinary history, I find his neglect of his client's case and his continuing failure to cooperate with The Florida Bar to be reprehensible.

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:

I recommend 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 and Rules of Professional Conduct:

- a.) 1-102(A)(6) for any other conduct that reflects adversely on his fitness to practice law;
- b.) 6-101(A)(3) for neglecting a legal matter entrusted to him;
- c.) 7-101(A)(1) for intentionally failing to seek the lawful objective of his client through reasonably available means.
- d.) 7-101(A)(2) for intentionally failing to carry out a contract of employment entered into with a client for professional services;
- e.) 4-1.3 for failing to act with reasonable diligence and promptness in representing his client;
- f.) 4-1.4(a) for failing to keep his client reasonably informed as to the status of a matter and promptly complying with her reasonable requests for information.

IV. Recommendation as to Disciplinary measures to be applied:

I recommend the respondent be suspended for a fixed period of ninety-one days and thereafter until he shall prove his rehabilitation and for an indefinite period until he shall pay the costs of this proceeding and make restitution to his client in the amount of \$585.50 as provided in Rule 3-5.1(e) of the Rules of Discipline. The amount payable to his client represents a refund of those monies paid by her less the \$230.50 in costs actually incurred by the respondent.

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: 42
Date admitted to Bar: November 19, 1971
Prior Disciplinary convictions and disciplinary measures imposed therein: None

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	\$197.75
3. Bar Counsel/Branch Staff Counsel Travel Costs	\$ 53.31
B. Referee Level Costs	
1. Administrative Costs	\$150.00
2. Transcript Costs	\$ 63.05
TOTAL ITEMIZED COSTS:	\$614.11

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 16th day of August, 1988.


Frederick T. Pfeiffer
Referee

Copies to:

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