

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

FILED
SID J. WHITE
FEB 14 1994
CLERK, SUPREME COURT
By _____
Chief Deputy Clerk

THE FLORIDA BAR,

Complainant,

v.

WILLIAM F. DANIEL,

Respondent.

Case No. 81,417

TFB File Nos. 92-00818-02 and
92-00876-02

REPORT OF THE REFEREE

I. SUMMARY OF PROCEEDINGS

Pursuant to the undersigned being duly appointed as referee to conduct disciplinary proceedings herein according to Rule 3-7.6, Rules of Discipline, the following proceedings occurred:

On March 11, 1993, The Florida Bar filed its Complaint against Respondent as well as its Request for Admissions in these proceedings. On May 17, 1993, The Florida Bar filed its Motion to Deem Matters admitted and Motion for Summary Judgment. On January 11, 1994, a hearing on The Florida Bar's Motion to Deem Matters Admitted and Motion for Summary judgment was held. Respondent failed to appear for the hearing. On January 18, 1994, this Referee entered an order granting summary judgment in favor of The Florida Bar. The

parties were given an opportunity to make written arguments as to discipline. All of the aforementioned pleadings, responses thereto, and this Report constitute the record in this case and are forwarded to the Supreme Court of Florida. The Florida Bar filed its written arguments. Respondent did not file a written argument.

II. FINDINGS OF FACT

A. Jurisdictional Statement. Respondent is, and at all times mentioned during this investigation was, a member of The Florida Bar, subject to the jurisdiction and Disciplinary Rules of the Supreme Court of Florida.

B. Narrative Summary Of Case. In or around July 1985, Raymond M. Werts slipped and fell on a flight of stairs at an apartment complex in Tallahassee, Florida. Thereafter, Mr. Werts retained Respondent to represent him in his personal injury case for damages. In or around May and July 1987, Respondent confirmed his intent to file suit on behalf of Mr. Werts. On or about April 22, 1988, Respondent corresponded with Mr. Werts that "because of [his] involvement in several other pressing matters, " he had not been able to file suit on behalf of Mr. Werts. On or about April 1, 1989, Mr. Werts wrote Respondent regarding the filing of the lawsuit. Therein, Mr. Werts expressed concern regarding the statute of limitations and its effect on his case. On or about June 28, 1989, Respondent filed suit on behalf of Mr. Werts against Arthur

Krill, Western Development and Investment Corporation, Western Investors Realty Corporation and Meridian Management and Realty Corporation. Meridian Management filed a Motion to Dismiss on November 2, 1989. Respondent took no further action with respect to Mr. Werts' lawsuit for over one year. On November 8, 1990, Meridian Management filed a Motion to Dismiss for lack of prosecution. Said Motion to Dismiss was denied on February 14, 1991. On February 25, 1992, Meridian Management filed another Motion to Dismiss for lack of prosecution. The Court granted the February 25, 1992 Motion to Dismiss on March 6, 1992. On numerous occasions after Respondent was retained, Mr. Werts asked the Respondent for status reports on his case. Respondent did not respond to such requests for information. On or about May 26, 1988, Respondent filed a personal injury lawsuit on behalf of Mary Lee Murray against Barnes Equipment Company and the Town of Gretna, Florida. Respondent sent Mary Lee Murray a letter on May 26, 1988 confirming that the civil suit had been filed. Both Defendants filed an answer to the complaint. In or around August and September 1988, the Town of Gretna filed Interrogatories and Requests to Produce. On approximately August 28, 1991, Respondent sent Mary Lee Murray a letter confirming the status of the lawsuit. At no time did Respondent file an Answer to the Interrogatories nor a Notice of Service of Answer to the Interrogatories nor a Notice of Service of Answer to the Interrogatories and/or Request to Produce. The next activity occurred in June 1989 when Barnes Equipment Company noticed a deposition. The next activity occurred on July 12, 1991 when Respondent filed a Request for Admissions and an affidavit of Mary

Lee Murray. In August and September 1991, the Town of Gretna noticed the parties of its intent to subpoena the Plaintiff's medical records. Mary Lee Murray's personal injury lawsuit is still pending and no further activity has occurred since September 1991. During the course of the pending litigation, Mary Lee Murray has made numerous telephone calls to Respondent to determine the status of her lawsuit. Respondent most often has been unavailable to speak with Ms. Murray. Respondent has not returned Ms. Murray's calls. Ms. Murray has written Respondent requesting information regarding her case but has received no response from Respondent since his August 1991 letter. Other than the Respondent's letters, Respondent has not communicated in writing with Mary Lee Murray regarding the status of the matter.

III. RECOMMENDATIONS AS TO GUILT.

I recommend that Respondent be found guilty of Rules 4-1.3 (a lawyer shall act with reasonable diligence and promptness in representing a client), 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), 4-1.4(b) (a lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation) and 4-3.2 (a lawyer shall make reasonable efforts to expedite litigation consistent with the interests of the client) of the Rules of Professional Conduct of The Florida Bar.

IV. RECOMMENDATION AS TO DISCIPLINARY MEASURES TO BE APPLIED

I recommend that Respondent be found guilty of misconduct justifying disciplinary measures, and that he be disciplined by:

- A. 91 day suspension.
- B. Payment of costs in these proceedings.

V. PERSONAL HISTORY AND PAST DISCIPLINARY RECORD

Prior to recommending discipline pursuant to Rule 3-7.6(k)(1), I considered the following personal history of Respondent, to wit:

Age: 65 years old

Date admitted to the Bar: October 15, 1956

Prior Discipline: Two thirty day suspensions which ran concurrent with each other in Supreme Court Case Number 78,063 (TFB File Number 90-00298-02) and Supreme Court Case Number 78,065 (TFB File Number 90-00450-02) by an order entered on September 30, 1993. Both cases involved neglect of clients' legal matters.

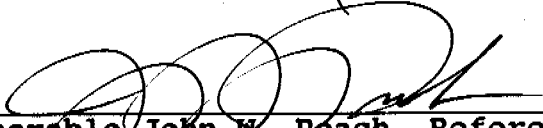
VI. STATEMENT OF COSTS AND MANNER IN WHICH COSTS SHOULD BE TAXED

I find the following costs were reasonably incurred by The Florida Bar:

Administrative Costs(2 cases at \$500.00 each pursuant to Rule 3-7.6(k)(1), Rules of Discipline)	\$1,000.00
Copying Charges	460.25
Investigator Expenses	71.22
Court Reporter	35.00
TOTAL	\$1,566.47 ✓

It is recommended that such costs be charged to Respondent and that interest at the statutory rate shall accrue and be payable beginning 30 days after the judgment in this case becomes final.

Dated this 8th day of February, 1994.


 Honorable John W. Peach, Referee
 Post Office Box 272
 Jasper, FL 32052
 (904) 792-1719

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original of the foregoing Report of Referee has been mailed to SID J. WHITE, Clerk of the Supreme Court of Florida, Supreme Court Building, Tallahassee, Florida 32301, and that copies were mailed by regular U.S. Mail to JOHN T. BERRY, Staff Counsel, c/o JOHN A. BOGGS, Director of Lawyer Regulation, The Florida Bar, 650 Apalachee Parkway, Tallahassee, Florida 32399-2300; LOIS B. LEPP, Bar Counsel, The Florida Bar, 650 Apalachee Parkway, Tallahassee, Florida 32399-2300; and WILLIAM F. DANIEL, Respondent, at his record Bar address of 418 E. Virginia Street, Post Office Box 12, Tallahassee, FL 32302-0012, on this 9th day of February, 1994.


 Honorable John W. Peach, Referee