

IN THE SUPREME COURT OF FLORIDA  
(Before a Referee)

FILED

SID J. WHITE

DEC 2 1993

CLERK, SUPREME COURT

By \_\_\_\_\_  
Chief Deputy Clerk

THE FLORIDA BAR,

Complainant,

Case No. 81,980  
[TFB Case No.93-30,446(10A)]

v.

JOEL E. GRIGSBY,

Respondent.

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DEC 2 '93

REPORT OF REFEREE

THE FLORIDA BAR  
LEGAL DIVISION

I. Summary of Proceedings: Pursuant to the undersigned being duly appointed as referee to conduct disciplinary proceedings herein according to the Rules Regulating The Florida Bar, a hearing was held on August 24, 1993. The pleading's, notices, orders, transcripts and 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 - Carlos E. Torres

For The Respondent - Kevin K. Broderick

II. Rule Violations Found: 4-8.1(b); and 4-8.4(a)

III. Findings of Fact as to Each Item of Misconduct of Which the Respondent Is Charged: After considering all the pleading's and evidence before me, pertinent portions of which are commented on below, I find:

1. The respondent was appointed by the Public Defender's Office in or around April, 1992, to represent an indigent inmate in an appeal of a criminal conviction. The inmate became dissatisfied with what he perceived to be a lack of communication with the respondent and complained to The Florida Bar in September, 1992.

2. On October 7, 1992, and again on November 16, 1992, the bar wrote the respondent and asked him to reply in writing to the inmate and copy the bar. The respondent failed to do so and the matter was forwarded to the grievance committee.

3. Although the respondent had written to the inmate in October, 1992, prior to being made aware of the inmate having filed a grievance, the respondent failed to provide a copy of said letter to the bar.

4. The investigating member of the grievance committee wrote the respondent in November, 1992, asking that he contact him regarding the bar's investigation, telephoned the respondent in December, 1992, and asked him to make a written response to the bar concerning the allegations, and verbally reminded the respondent to make a written response after seeing him at the county courthouse. Although the respondent repeatedly assured the investigating member he would do so, he did not follow through. An assistant staff attorney with The Florida Bar also spoke with the respondent by telephone and asked him to make a written response to the bar.

5. The respondent did not reply to the bar or provide it with a copy of his letter to the inmate of October 5, 1992, until he attended the grievance committee hearing on April 13, 1993.

6. Had the respondent timely provided to the bar a copy of the aforementioned letter, it would have obviated the need to hold a grievance committee hearing because the respondent's evidence showed there was no merit to the inmate's allegations of neglect and inadequate communication.

7. The respondent testified under oath before the grievance committee on April 13, 1993, and admitted he had not responded to the bar despite repeated requests that he do so.

8. According to the evidence presented by the respondent at the final hearing, it is clear he suffers from clinical depression for which he has voluntarily sought treatment. I find that although the respondent's illness explains his conduct, it does not excuse it. Responding to the bar's request for information consisted of doing nothing more than mailing a copy of a previously written letter. It is contradictory that the respondent was unable to mail a letter but was able to attend the grievance committee hearing, thus incurring additional costs for himself and the bar.

9. I do find it commendable that the respondent sought treatment for his depression on his own and now appears to have the problem, under control.

IV. Recommendations as to Whether or Not the Respondent Should Be Found Guilty: As to each county 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 the following violations of the Rules of Professional Conduct: 4-8.1(b) for failing to respond to a lawful demand for information from a disciplinary authority; and 4-8.4(a) for violating the Rules of Professional Conduct.

V. Recommendation as to Disciplinary Measures to Be Applied:

I recommend the respondent receive a public reprimand and be placed on a three year period of conditional probation pursuant to Rule of Discipline 3-5.1(c) during which time he shall continue to actively participate in therapy with a licensed mental health counselor. The respondent shall ensure that his counselor submits quarterly reports to The Florida Bar during the probationary period. The reports shall confirm the respondents active participation in counseling for the preceding period and shall evaluate the respondent's ability to engage in the active practice of law.

I further recommend that the respondent be supervised by an attorney who is a member in good standing with The Florida Bar and who is acceptable to the bar to act as a supervisor. The supervising attorney shall provide continuous monitoring of the respondent's client case files and provide quarterly reports to the bar regarding the status of the respondent's client files. The respondent shall be responsible for submission of the quarterly reports to the bar's headquarters for submission of the quarterly reports to the bar's headquarters in Tallahassee. I further recommend as a condition of the respondent's probation that he shall reimburse the bar for the monthly monitoring of his probation. All monthly monitoring costs must be remitted not less than five days from the end of each respective month in which the monitoring expense is due. All costs should be paid to the bar's headquarters in Tallahassee. I make this recommendation based upon the respondent's prior disciplinary history which is set forth below.

VI. Personal History and Past Disciplinary Record: After the finding of guilty and prior to recommending discipline to be recommended pursuant to Rule 3-7.6(k)(1)(D), I considered the following personal history and prior disciplinary record of the respondent:

Age: 42  
Date admitted to bar: November 16, 1978  
Prior disciplinary convictions and disciplinary measures imposed therein:

The Florida Bar v. Grigsby, Supreme Court Case No. 80,118; 617 So.2d 21 (Fla. 1993). Three months suspension because on three separate cases he failed to act with reasonable diligence and promptness in representing his clients and failed to keep his clients reasonably informed.

The Florida Bar v. Grigsby, TFB case No. 90-31,406 (10A).  
An admonishment administered by an appearance before the Board of  
Governors of The Florida Bar for inadequate communication with a  
client and failure to respond to the bar's inquiries concerning  
the client's grievance.

VII. 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. Transcript Costs	\$ 100.50
2. Bar Counsel Travel Costs	\$ 19.66
B. Referee Level Costs	
1. Transcript Costs	\$ 352.40
2. Bar Counsel Travel Costs	\$ 51.71
C. Administrative Costs	\$ 500.00
D. Miscellaneous Costs	
1. Investigator Expenses	\$ 60.60
2. Copies	\$ 52.50

TOTAL ITEMIZED COSTS: \$1,137.37

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 24th day of November, 1993.

  
\_\_\_\_\_  
JOSÉ R. RODRIGUEZ  
Referee

Copies to:

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Ave. Suite 200, Orlando, Florida 32801.

Mr. Kevin K. Broderick, Counsel for Respondent, P.O. Box 8759,  
Lakeland, Florida 33806.

Mr. John T. Berry, Staff Counsel, The Florida Bar, 650 Apalachee  
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