

FILED.

SID J. WHITE

SEP 21 1995

CLERK, SUPREME COURT

By

Chief Deputy Clerk

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,

Complainant,

CASE NO. 85,341

v.

EUSTACE LESLIE,

TPB NO. 950183(04)

Respondent.

_____ /

REPORT OF THE REFEREE

I. SUMMARY OF PROCEEDINGS

Pursuant to the undersigned being duly appointed as Referee to conduct proceedings herein according to Rule 10-7.1(b)(6), Rules Regulating The Florida Bar, the following proceedings occurred:

Petitioner The Florida Bar filed a Petition Against the Unlicensed Practice of Law against Respondent Leslie Eustace on March 15, 1995, in the Supreme Court of Florida. Respondent Eustace Leslie filed an Answer on April 12, 1995, denying the allegations of the petition.

On June 27, 1995, the Petitioner filed, among other documents, a First Request for Admissions. The First Request for Admissions asked the Respondent to Admit that:

(a) He is not a member of The Florida Bar.

(b) He has never been a member of The Florida Bar.

(c) He prepared the State of Florida Employment Application which was attached to the First Request for Admissions as Exhibit A and which was later introduced into evidence as Exhibit Number 1 for The Florida Bar.

(d) He used a business card which was attached to the First Request for Admissions as Exhibit B and which was later introduced into evidence as Exhibit Number 2 for The Florida Bar.

Respondent failed to respond to that First Request for Admissions and is therefore deemed to have admitted all four of the above statements.

A status conference was held on June 28, 1995. Both Mr. Leslie and Lori Holcomb, Esquire, attorney for The Florida Bar, attended. At that status conference, the case was set for an evidentiary hearing on August 23, 1995, from 1:30 p.m. to 5:00 p.m. On August 23, 1995, the undersigned Referee held an evidentiary hearing on the petition. Present at the hearing were Lori S. Holcomb, Esquire, the attorney for the petitioner, The Florida Bar; the respondent, Mr. Eustace Leslie, pro se; and various witnesses and observers. The Court received the testimony of the witnesses (including the Respondent) and considered all of the aforementioned pleadings, attachments thereto, and exhibits received into evidence. Those pleadings and other documents, together with this report, constitute the record in this case and are forwarded to the Supreme Court of Florida. A court reporter attended the evidentiary hearing but the proceedings have not been transcribed.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

A. Jurisdictional Statement.

The Supreme Court of Florida has exclusive jurisdiction to prohibit the unlicensed practice of law pursuant to Article V, Section 15 of the Florida Constitution. The undersigned Referee is authorized by Rule 10-7 of the Rules Regulating the Florida Bar to

conduct an evidentiary hearing in this matter and to report to the Supreme Court of Florida her findings of fact, conclusions of law and recommendations.

B. Narrative Summary of Case.

Based upon the testimony and evidence presented, the Referee finds that:

(1) Respondent Eustace Leslie is not and has never been a member of the Florida Bar and is not and has never been licensed to engage in the practice of law in the state of Florida. See Petitioner's Exhibit Number 3 (Certification from Sid J. White, Clerk of the Supreme Court of Florida, certifying that Eustace Leslie has never been admitted as an attorney entitled to practice law in the courts of the state of Florida) and Respondent's deemed admission numbers 1 and 2.

(2) Respondent Eustace Leslie has falsely represented himself to "clients," potential "clients," lawyers and other persons as a lawyer licensed to practice in the state of Florida.

(3) Respondent Eustace Leslie telephoned attorney Sharon Johnson at her law office late one evening in October of 1994, identified himself by name, represented himself as a lawyer, made comments about one of her cases and sought to have her comment on that case. Ms. Johnson refused to do so. The next morning, Mr. Leslie again called Ms. Johnson, again identified himself by name and again tried again to converse with her about her case. Ms. Johnson declined to do so and instructed her office staff not to accept any further calls from Mr. Leslie. Unaware of this

instruction, a new staff member took a message for Ms. Johnson from "Leslie." The telephone number provided by "Leslie" began with a 630 exchange which Ms. Johnson recognized as a City of Jacksonville/courthouse exchange. Believing the message to be from an acquaintance in the state attorney's office, Ms. Johnson returned the phone call and discovered that the telephone number was that of the Duval County Law Library. She immediately went from her office across the street from the courthouse to the Duval County Law Library in the courthouse. A front desk employee, Mary Gibbs, advised Ms. Johnson that Mr. Leslie was then in the Duval County Law Library and pointed him out to Ms. Johnson. Ms. Johnson observed Mr. Leslie on the telephone in that library but was unable to hear his conversation. Seeing a local prosecutor in the library, she asked him to step outside. She advised the prosecutor of the events recounted above. The prosecutor told her that he had heard Mr. Leslie on the telephone in the Duval County Law Library, making appointments with "clients."

(4) Respondent Eustace Leslie identified himself as an attorney in an April 29, 1995, letter to the Department of Juvenile Justice. In that letter, he offered to perform "legal counselling" on "matters in the legal areas" for the Department of Juvenile Justice.

On July 24, 1995, the Department of Juvenile Justice contacted Roger Williams, Esquire, Assistant District Legal Counsel for the Department of Health and Rehabilitative Services, and expressed concern about the letter. Mr. Williams telephoned Mr.

Leslie that same day. Mr. Williams asked Mr. Leslie if he (Mr. Leslie) was a lawyer. Mr. Leslie replied that he was a member of the American Bar Association and was therefore a member of The Florida Bar.

During Mr. Leslie's cross-examination of Mr. Williams at the evidentiary hearing, Mr. Leslie asked a question concerning the purported equivalence of membership in the ABA and in The Florida Bar. Mr. Williams responded that Mr. Leslie had used the same argument in talking with him on the telephone on July 24, 1995.

(5) Mr. Leslie was a regular, even daily, visitor to the Duval County Law Library. Wackenhut security guard Jacqueline Rosende is employed nights and weekends at the back entrance to the Duval County Courthouse. Because that is the only open entrance during her work shifts, she necessarily comes into contact with persons using the courthouse during those hours. Ms. Rosende testified that Mr. Leslie was in the Duval County Law Library at some point during virtually every shift she worked at the courthouse.

Mr. Leslie on one occasion asked Ms. Rosende to send his "client" to the law library to meet him. He then wrote the name of the "client" on a piece of paper and gave it to her. When an increasingly-suspicious Ms. Rosende asked Mr. Leslie if he had a business card, Mr. Leslie replied that he didn't then have one but nevertheless insisted that he was an attorney.

On one Saturday afternoon, Mr. Leslie asked Ms. Rosende to that day file some typed papers for a court case for him,

explaining that they "had to be on the judge's desk Monday morning."

(6) Although Mr. Leslie used the Duval County Law Library on a daily basis, he refused to sign the library register. Mr. Leslie asked two library employees, Mary Gibbs and Dana Spharler, to receive his phone calls and to type and file papers for him. They declined to do the latter tasks but initially did advise Mr. Leslie of incoming calls from persons seeking "Attorney Leslie." Mr. Gibbs also met in the library with persons who asked at the library front desk for "Attorney Leslie."

Mr. Leslie presented Ms. Spharler with his business card (Exhibit Number 2 for The Florida Bar), which identified him as an attorney and which had a blank space for his telephone number, and asked her to write the telephone number of the law library in the blank space on the card. He explained that he needed to do this because he did not have a telephone. Ms. Spharler complied with his request.

Mr. Leslie variously identified himself to Ms. Gibbs as "a big-time lawyer" or an accountant. Mr. Leslie boasted to Ms. Spharler about the large sums of money he claimed he had made representing clients in New Jersey.

(7) Mr. Leslie completed a State of Florida Employment Application form for the position of Court Mediation Director in which he listed his current employment as "attorney-at-law." Although the application form is undated, Mr. Leslie wrote on it

that he was available to assume the sought-after position on January 18, 1994.

The application form indicated that Mr. Leslie had obtained a "Degree, Law" from LaSalle University after attending that university from 1990 to 1994. Despite his claimed attendance at LaSalle University, a Louisiana educational institution, during those years, Mr. Leslie indicated on that same application form that he left a construction job in 1990 "[t]o join family in Florida." Additionally, he indicated on the application form that he was employed from 1993-94 (before his purported graduation from law school) "working for my self, Assisting Offending: on All Offences, Mainly Frm my Home Address" (sic) and identified his duties and responsibilities during that period as "Preparing Defenses in criminal Cases, Preparing [unreadable] in civil cases, including [unreadable] Bankruptcy cases (Both State and Federal)." (sic)

(8) Mr. Leslie testified that he has at some point been a law student. He introduced into evidence his photo ID card for LaSalle University, dated January 30, 1995, identifying him as being enrolled in a "Juris Doctor Special." degree program. No testimony was presented as to the nature of that program or whether Mr. Gibbs is presently enrolled in or has completed that program.

Mr. Leslie also introduced into evidence (Respondent's Exhibit Number 3) two written examination questions from LaSalle University but did not explain the significance of the questions or where, how or when he obtained them.

Mr. Leslie then introduced into evidence a document (Respondent's Exhibit Number 4) entitled "Rule 2.05 Appearance by Law Students" but was unable to identify the rules of court from which the rule was drawn. Significantly, Mr. Leslie offered no testimony that he was an "eligible law student," as defined by section (d) of that rule, who would be entitled to assist indigent persons under the supervision of a licensed attorney. In any event, the rule, even were it otherwise applicable, does not authorize a law student to falsely identify himself as an attorney nor to practice law outside the strict limitations of the rule.

Mr. Leslie introduced his American Bar Association membership card ("Member Since 1995") (Respondent's Exhibit Number 2) but then proceeded to read into the record an ABA document which suggested that non-lawyers in certain law-related fields, e.g., court administration, are entitled to be members of that organization. He did not indicate whether, when applying to the ABA, he represented on the application form that he was a lawyer. Clearly, mere membership in the ABA does not establish that an individual is an attorney or is licensed to practice law in Florida.

(9) The Petitioner seeks taxation of costs against the Respondent but has not introduced proof of the amount of the taxable costs which it has incurred in this proceeding. As the prevailing party, the Petitioner is entitled to taxation of costs in its favor. Should the Court desire to retain jurisdiction over

this issue, the undersigned Referee, if the Court directs, will conduct supplemental proceedings to determine this issue.

III. CONCLUSIONS OF LAW.

Based upon the foregoing findings of fact, the undersigned Referee concludes that the respondent, Eustace Leslie, has engaged in the unlicensed practice of law in Duval County, Florida, by falsely representing to clients and other persons that he is an attorney licensed to practice law in the state of Florida; by operating a law office from within the Duval County Law Library; by meeting with clients at and receiving calls from and making calls to clients from that library; by falsely representing on a State of Florida Employment Application form that he is an attorney; and by using and distributing a business card which falsely identifies him as an attorney.

IV. STIPULATION.

The parties have not entered into any stipulation.

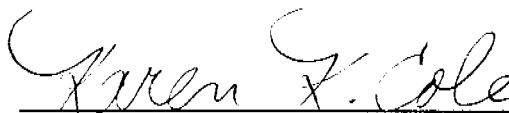
V. RECOMMENDATIONS.

The undersigned Referee recommends that:

(1) Respondent, Eustace Leslie, be enjoined from the unlicensed practice of law through issuance by the Supreme Court of Florida of a permanent injunction preventing and restraining Respondent from engaging in the acts described above and from otherwise engaging in the practice of law in the state of Florida until such time as Respondent is duly licensed to practice law in this state; and

(2) Jurisdiction over taxation of costs be reserved and the costs of this proceeding be taxed against the Respondent in supplemental proceedings. It is recommended that any costs taxed accrue interest at the statutory rate and be payable beginning 30 days after the costs judgment in this case becomes final.

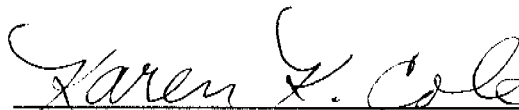
Dated this 20th day of September, 1995, in Jacksonville, Duval County, Florida.



Karen K. Cole, Referee
Room 200, Duval Courthouse
Jacksonville, FL 32202

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 Mary Ellen Bateman, Esquire, UPL Counsel, The Florida Bar, 650 Apalachee Parkway, Tallahassee, Florida 32399-2300, and to Mr. Eustace Leslie, Repondent, at 1471 East 25th Street, Jacksonville, Florida 32206, this 20th day of September, 1995.



Karen K. Cole, Referee