

**IN THE SUPREME COURT OF FLORIDA
(Before A Referee)**

THE FLORIDA BAR,

Complainant,

v.

WILLIAM ABRAMSON,

Respondent.

_____ /

**Supreme Court Case
No. SC07-713**

**The Florida Bar File
No. 2006-51,004(15F)**

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 April 18, 2007, The Florida Bar filed its complaint against respondent in these proceedings. Thereafter, the undersigned was appointed to preside as referee in this proceeding by order of the Chief Judge of the Seventeenth Judicial Circuit. The final hearing was held on February 27, 28, March 18, 19, and 20, 2008. The pleadings, responses thereto, exhibits received in evidence, and this Report constitute the entire record in this case and are forwarded to the Supreme Court of Florida.

During the course of these proceedings, respondent appeared pro se, and Michael David Soifer, Esq., represented The Florida Bar.

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.

Respondent, William Abramson, represented Lauren Hindle in a criminal jury trial in the Circuit Court of the 15th Judicial Circuit In and for Palm Beach County Florida, Case Number 05-013417CF, the Honorable Richard I. Wennet presiding. Hindle was charged with felony Driving While License Revoked and also having an unregistered motor vehicle. Respondent had filed a demand for speedy trial and the case was set for trial on December 19, 2005. On that date, Judge Wennet arrived for the trial approximately sixteen minutes late after he had previously gone to the hospital that morning on a family related matter. Respondent believed the case could be disposed of quickly either by a Motion for Discharge or a change of plea and wanted Judge Wennet to entertain his motions before the proceedings began. The jury panel was already seated for jury selection and Judge Wennet, who places importance on being prompt and timely, went right into the jury selection and did not want to interrupt that process by having a side bar or a conversation with the attorneys outside the presence of the jury. Almost immediately after Judge Wennet introduced himself

and began speaking to the jury, respondent interrupted him and asked to approach. Judge Wennet asked respondent to be seated, and respondent continued to ask to approach. Judge Wennet refused to allow respondent to approach and informed respondent that he would hear all of his motions after the *voir dire* was completed. The respondent failed to obey the judge and continued to interrupt the proceedings and went too far in his quest to protect the record. Assistant State Attorney in the Hindle case, Dan Funk, testified that respondent was visibly upset and insistent in his tone, that respondent was not following Judge Wennet's instructions and the judge himself became extremely frustrated by respondent's conduct and actions. Mr. Funk described respondent's conduct as beyond belief and unlike anything he had seen before.

I find that both the Judge and respondent became frustrated and that both fueled the fire. Had either Judge Wennet taken a few minutes to hear respondent's Motion for Discharge and/or change of plea, or had respondent acted appropriately after Judge Wennet refused to hear him outside the presence of the jury, the instant disciplinary matter would most likely not be before the court. The conduct and the actions and the voice tones used by both seem to have provoked each other. After the incident, the judge E-mailed copies of the bar complaint to every judge, traffic hearing officer and magistrate in Palm Beach County and the two are now opponents in a contested judicial race. But, what respondent fails to fully realize is that the issue is not Judge

Wennet's exercise of his discretion or his tone of voice or conduct, but the conduct and the actions of respondent himself. I do not find fault with Judge Wennet's exercise of his discretion in deciding to set respondent's motions for after the selection process and not wanting to interrupt that process.

The evidence shows that because of the conduct of respondent, the jury was focused on respondent instead of the court and that respondent's conduct interrupted the proceedings. The respondent was discourteous and not respectful to Judge Wennet in the presence of the jury.

Respondent's misconduct continued when it became his turn to question the prospective jurors. Respondent was disrespectful to Judge Wennet and disparaged his qualifications to the jury. The evidence is clear that respondent indicated to the jurors or in the presence of the jurors that the Judge was the one that was completely disrespectful, lacking respect, and lacking professionalism, and that the judge violated the procedures and violated the rules and was disrespectful. Respondent inquired of the prospective jurors as to whether or not the jurors felt what the judge did was appropriate. The evidence indicates that the jurors said they thought respondent was disrespectful to the judge. Ultimately, Ms. Hindle discharged respondent as her attorney, the trial did not go forward that day and the jury panel was dismissed. Judge Wennet initiated a contempt proceeding against respondent but did not proceed on it, deciding to refer the matter to The Florida Bar instead.

Among the exchanges by respondent occurring in the presence of the jury during his *voir dire* of the jury panel were the following:

Trial Transcript, at page 55, lines 9 to 13:

MR ABRAMSON: Okay, so for all you know, the judge was the one that was completely disrespectful, lacking in respect, lacking in professionalism, and it was not me; you don't know that because you were not here earlier, correct?

Trial Transcript, at page 65, lines 12 to 15:

MR. ABRAMSON: Okay. So, if, in fact, I'm doing what I think is legally right and the Judge is preventing me from doing my job, it is actually the judge that is unprofessional, not me, right?

Trial Transcript, at page 140, lines 14 to 17:

MR. ABRAMSON: This Judge said no. He violated the procedures; he violated the rules; he was disrespectful and he was unprofessional, not me. And that's the answer to your question, Mr. Lewis.

Respondent indicated to the judge outside the presence of the jury that it was the judge who was 100 percent disrespectful, and not respondent:

Trial Transcript, at page 169, lines 20-25:

MR. ABRAMSON: ...No matter what I did wrong, Judge, no matter what I did, it is one hundred percent disrespectful of the Court – now the jury thinks it's me, but, actually, Judge, it was a hundred percent you, and it's completely your fault that this case denigrated itself to the point that it got..."

I find that respondent violated the four rules charged in the complaint. As it relates to Rule 4-3.5(c), Rules Reg. Fla. Bar, Mr. Abramson's conduct was deliberate and knowing, and as a result, the tribunal was disrupted. As it relates to Rule 4-8.2(a),

there is no question that the evidence presented showed that respondent impugned the qualifications and the integrity of the judge. I also find that respondent sought to impermissibly influence the jurors in violation of Rule 4-3.5(a), and that his actions were prejudicial to the administration of justice in violation of Rule 4-8.4(d).

III. RECOMMENDATION AS TO GUILT

I recommend respondent be found guilty of violating R. Regulating Fla. Bar R. Regulating Fla. Bar 4-3.5(a) [A lawyer shall not seek to influence a judge, juror, prospective juror, or other decision maker except as permitted by law or the rules of court.]; 4-3.5(c) [A lawyer shall not engage in conduct intended to disrupt a tribunal.]; 4-8.2(a) [A lawyer shall not make a statement that the lawyer knows to be false or with reckless disregard as to its truth or falsity concerning the qualifications or integrity of a judge, mediator, arbitrator, adjudicatory officer, public legal officer, juror or member of the venire, or candidate for election or appointment to judicial or legal office.]; 4-8.4(d) [A lawyer shall not engage in conduct in connection with the practice of law that is prejudicial to the administration of justice, including to knowingly, or through callous indifference, disparage, humiliate, or discriminate against litigants, jurors, witnesses, court personnel, or other lawyers on any basis, including, but not limited to, on account of race, ethnicity, gender, religion, national origin, disability, marital status, sexual orientation, age, socioeconomic status, employment, or physical characteristic.].

IV. RECOMMENDATION AS TO DISCIPLINARY MEASURES TO BE APPLIED

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

A. A public reprimand to be administered by the Board of Governors of The Florida Bar for which respondent shall appear personally.

B. Respondent shall be placed on non-reporting probation for one (1) year to commence upon the Order of the Supreme Court approving the Report of Referee, with the following conditions:

1. Respondent shall attend Professionalism Workshop presented by The Florida Bar within six months of the Supreme Court Order, or if not given within that 6 month period, at the first available Ethics School thereafter. Respondent is responsible for paying all fees and expenses incurred within such workshop and shall submit proof of completion of the course to the bar's headquarters within 30 days of completion.

2. Respondent shall attend Ethics School presented by The Florida Bar within six months of the Supreme Court Order, or if not given within that 6 month period, at the first available Ethics School thereafter. Respondent is responsible for paying all fees and expenses incurred within such school and shall submit proof of completion of the course to the bar's headquarters within 30 days of completion.

C. Respondent shall pay The Florida Bar's costs in these proceedings.

In arriving at the aforementioned sanction, both Florida Standards for Imposing Lawyer Sanctions (Florida Standards) and pertinent case law have been examined. As it relates to aggravating factors, I find that there were two prior disciplinary offenses and I consider those serious. I also find in aggravation, that there are multiple offenses and that respondent has substantial experience in the practice of law. In mitigation, I find that there were extreme and highly unusual facts and circumstances in this case, which do not excuse or justify respondent's conduct, but do constitute mitigating circumstances. I also find that respondent has participated in many pro bono matters. I also find there was an absence of dishonest or selfish motive. In fact, I think possibly one of the reasons for his overzealousness at times deals merely with an attempt to do whatever he can to benefit his clients. I also find that respondent has good character and reputation notwithstanding the fact that the en banc order dated June 20, 2000, entered in Chapman v. State of Florida, In the Fifteenth Judicial Circuit, In and For Palm Beach County, Florida, Appellate Division (Criminal) Circuit Court No. 99-19 AC A02, 8 Fla. L. Weekly Supp. 292a, seemed to say otherwise. I'm unclear as to what judges signed on to that order and what judges didn't because of how the record reflects the votes. I also find that respondent is remorseful.

The Supreme Court of Florida set forth the purposes of attorney discipline in The Florida Bar. v. Pahules, 233 So.2d 130,132 (Fla. 1992); attorney discipline must

protect the public from unethical conduct and have a deterrent effect while still being fair to respondents.

V. PERSONAL HISTORY, PAST DISCIPLINARY RECORD AND AGGRAVATING AND MITIGATING FACTORS

Prior to recommending discipline pursuant to Rule 3-7.6(m)(1)(D), I considered the following:

A. Personal History of Respondent

Age: 41

Date Admitted to The Florida Bar: November 23, 1992

B. Aggravating Factors:

9.22(a) Prior disciplinary offenses.

Respondent received a public reprimand with probation ending on September 29, 2003, by order of the Supreme Court of Florida dated August 29, 2002, in The Florida Bar File No. 2001-50,975(15D); Supreme Court Case No. SC01-2813.

Respondent received a public reprimand by Order of the Supreme Court of Florida dated April 26, 2001, in The Florida Bar File No. 2000-50,873(15D); Supreme Court Case No. SC00-848.

9.22(d) Multiple Offenses

9.22(i) Substantial experience in the practice of law.

C. Mitigating Factors:

9.32(b) Absence of Dishonest or Selfish Motive. In addition, the extreme and highly unusual facts and circumstances in this case were also noted as a mitigating factor.

9.32 (g) Character or reputation. In addition, respondent's participation in many pro bono matters was also noted as a mitigating factor.

9.32 (l) Remorse

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

I find the following reasonable costs have been incurred by The Florida Bar:

A. Grievance Committee Level Costs:	
1. Court Reporter Costs	\$ - 0 -
2. Bar Counsel Travel Costs	\$ - 0 -
B. Referee Level Costs:	
1. Court Reporter Costs	\$ 5,616.25
2. Bar Counsel Travel Costs	\$ 361.04
C. Administrative Fee	\$ 1,250.00
D. Miscellaneous Costs:	
1. Investigator Costs	\$ 77.38
2. Witness Fees	\$ 157.78
3. Copy Charges	\$ - 0 -
TOTAL ITEMIZED COSTS:	<u>\$ 7,462.45</u>

It is apparent that other costs have or may be incurred. It is recommended that such costs be charged to respondent and interest at the statutory rate shall accrue and should such cost judgment not be satisfied within 30 days of said judgment becoming

final, respondent shall be deemed delinquent and ineligible to practice law, pursuant to R. Regulating Fla. Bar 1-3.6, unless otherwise deferred by the Board of Governors of The Florida Bar.

Dated this _____ day of _____, 2008.

Honorable Thomas M. Lynch, IV, Referee

CERTIFICATE OF SERVICE

I HEREBY CERTIFY the original of the foregoing Report of The Referee has been mailed to The Honorable Thomas D. Hall, Clerk, Supreme Court of Florida, 500 South Duval Street, Tallahassee, Florida 32399-1927, and copies were mailed by regular mail to the following Staff Counsel, The Florida Bar, 651 E. Jefferson Street, Tallahassee, Florida 32399-2300; and Michael David Soifer, Bar Counsel, The Florida Bar, 5900 North Andrews Avenue, Suite 900, Fort Lauderdale, Florida 33309-2366; and to William Abramson, Respondent, 324 Datura Street, #100, West Palm Beach, Florida 33401 on this _____ day of _____, 2008.

Honorable Thomas M. Lynch, IV, Referee