

IN THE SUPREME COURT OF FLORIDA  
(Before a Referee)

THE FLORIDA BAR,

Complainant,

Case No. SC07-1461

[TFB Case No. 2007-30,087 (18B)]

v.

DAVID A. MURAD,

Respondent.

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**REPORT OF REFEREE ACCEPTING CONSENT JUDGMENT**

- I. Summary of Proceedings: The undersigned was appointed as referee to conduct disciplinary proceedings herein according to the Rules Regulating The Florida Bar. 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 - Frances R. Brown-Lewis

For The Respondent - *pro se*

- II. Findings of Fact as to Each Item of Misconduct of which the Respondent Is Charged: After considering all the pleadings and evidence, pertinent portions of which are commented on below, this referee finds pursuant to the Conditional Guilty Plea for Consent Judgment that the facts of the Consent Judgment are admitted. The Conditional Guilty Plea for Consent Judgment is attached hereto and incorporated herein.

- III. Recommendations as to Whether the Respondent Should Be Found Guilty: As to each count of the complaint this referee makes the following recommendations as to guilt or innocence:

Pursuant to the Conditional Guilty Plea for Consent Judgment, this referee finds

the respondent guilty as admitted in the Conditional Guilty Plea for Consent Judgment.

In making my recommendation, I have considered the following Standards for Imposing Lawyer Sanctions:

#### 4.4 Lack of Diligence

4.44 Admonishment is appropriate when a lawyer is negligent and does not act with reasonable diligence in representing a client, and causes little or no actual or potential injury to a client.

#### 6.2 Abuse of the Legal Process

6.24 Admonishment is appropriate when a lawyer negligently fails to comply with a court order or rule, and causes little or no injury to a party, or causes little or no actual or potential interference with a legal proceeding.

#### 9.22 Aggravating Factors

(i) substantial experience in the practice of law.

#### 9.32 Mitigating Factors

- (a) absence of prior disciplinary record;
- (b) absence of a dishonest or selfish motive;
- (e) full and free disclosure to disciplinary board or cooperative attitude toward proceedings;
- (g) character or reputation;
- (l) remorse.

I also have considered the following case law:

*The Florida Bar v. Goldstein*, TFB Case No. 2002-31,664(19B) – Admonishment by letter from the Chair of the grievance committee for neglect and failure to supervise nonlawyer staff. The attorney represented a client in a claim for personal injuries. She wrote letter attempting to obtain the client's medical records but repeatedly failed to provide the correct information resulting in a substantial delay in obtaining the necessary information. By the time the attorney corrected the problem the time for seeking payments under the client's insurance policy had expired. In disputing the insurer's denial of coverage, the attorney enclosed a copy of a letter purportedly sent to the insurer prior to the expiration date of the coverage period enclosing the required medical records. In fact, the date on the

enclosed letter was incorrect, the result of an error by respondent's secretary using an old form letter without making any alterations or corrections. This type of error was a frequent problem in respondent's office as a result of her failure to supervise her staff and review the letters sent.

*The Florida Bar v. Wolfe*, TFB Case No. 1991-31,386(07A) – Admonishment administered by personal appearance before the board of governors pursuant to an admission of minor misconduct for neglect of an estate and inadequate communication. The attorney was hired by another attorney on behalf of an out-of-state client to handle a contested probate matter. The client believed her half-brother used undue influence in obtaining a quit claim deed from their mother just prior to her death and wanted to contest his petition to be appointed as personal representative for the estate. Ultimately, the court appointed both the client and her half-brother as co-personal representatives. After initially maintaining good communication with the client, the attorney became difficult to contact and the court advised the client the inventory had not been filed within the required time frame. After the attorney failed to proceed with the estate administration in a timely manner and failed to maintain adequate communication with the client, she terminated his services and sought a refund of the fee. The attorney never advised the client of her responsibilities as co-personal representative and gave her no reasonable explanation for the delay in the probate.

*The Florida Bar v. Smith*, No. 84,534 (Fla. July 6, 1995) – Admonishment to be administered by personal appearance before the board followed by 6 months probation for neglecting an estate and failing to timely respond to the bar's investigative inquiries. The attorney failed to timely close an estate after an appeal was concluded, failed to maintain adequate communication with the personal representative, erroneously advised the personal representative the estate had been closed when in fact it had not, and failed to respond to the bar until after the matter was set for hearing before the grievance committee.

IV. Recommendation as to Disciplinary Measures to Be Applied:

Pursuant to the Conditional Guilty Plea for Consent Judgment, this referee makes the following recommendations as to the disciplinary measures to be applied:

A. Admonishment for minor misconduct to be administered by letter from the referee.

B. Payment of costs which currently total \$1,836.63.

V. Personal History and Past Disciplinary Record: After the finding of guilty and prior to recommending discipline to be recommended pursuant to R. Regulating Fla. Bar 3-7.6(m)(1)(D), this referee considered the following personal history and prior disciplinary record of the respondent, to wit:

Age: 47

Date admitted to bar: January 17, 1991

Prior disciplinary convictions and disciplinary measures imposed therein:

None

VI. Statement of costs and manner in which costs should be taxed: This referee finds the following costs were reasonably incurred by The Florida Bar.

|                                    |            |
|------------------------------------|------------|
| A. Grievance Committee Level Costs |            |
| 1. Bar Counsel Travel Costs        | \$ 68.55   |
| B. Administrative Costs            | \$1,250.00 |
| C. Miscellaneous Costs             |            |
| 1. Investigator Expenses           | \$ 376.78  |
| 2. Copy Costs                      | \$ 141.30  |
|                                    | <hr/>      |
| TOTAL ITEMIZED COSTS:              | \$1,836.63 |

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. It is further recommended that respondent shall be deemed delinquent and ineligible to practice law pursuant to R. Regulating Fla. Bar 1-3.6 for failure to timely pay the costs assessed in this proceeding.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

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Thomas J. Walsh, Jr.  
Referee

Original to Supreme Court with Referee's original file.

Copies of this Report of Referee only to:

Frances R. Brown-Lewis, Bar Counsel, 1200 Edgewater Drive, Orlando, Florida,  
32804-6314

David A. Murad, Respondent, 45 Arlington Road, Utica, New York 13501

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