

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,

Complainant,
v.

CASE NO. SC09-1124
TFB NO. 2009-10,064(12B)

STANLEY E. MARABLE,

Respondent.

_____ /

REPORT OF REFEREE

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 Conditional Guilty Plea for Consent Judgment was signed by the parties. Any pleadings, notices, motions, orders, transcripts, and exhibits are forwarded to The Supreme Court of Florida with this report and constitute the record in this case.

The following attorneys appeared as counsel for the parties:

For The Florida Bar: Susan Varner Bloemendaal
For The Respondent: *Pro se*

II. Findings of Fact as to Each Item of Misconduct With Which the Respondent Is Charged: After considering all the pleadings and evidence before me, I adopt as my findings those facts set forth in the Consent Judgment which is incorporated herein by reference.

III. Recommendations as to Whether or Not the Respondent should Be Found Guilty: As to the Complaint, and based on the Consent Judgment, I recommend that the Respondent be found guilty of violating the following Rules Regulating The Florida Bar:

4-1.4(a) (4) failure to promptly comply with reasonable requests for

information; and,

4-8.4(g) failure to respond, in writing, to any official inquiry by the Bar.

IV. Recommendation as to Disciplinary Measures to Be Applied: A **public reprimand** with the following conditions:

1) Within thirty (30) days after final order of the Supreme Court of Florida in this matter, Respondent must undergo an evaluation by a psychiatrist or psychologist who works with and is recommended by Florida Lawyers Assistance, Inc. If a psychiatric, psychological or addiction problem is noted, Respondent must enter into a contract with Florida Lawyers Assistance, Inc. (FLA). Respondent agrees to a term of disciplinary probation that shall run concurrently with the term of any FLA contract. Respondent hereby consents to open communication between all therapists and expressly waives any and all applicable patient/therapist privileges to the extent necessary to provide the Bar with evidence of his compliance or noncompliance of the terms of probation and of the terms of any contract with Florida Lawyers Assistance, Inc. Respondent shall be responsible for any fees or costs associated with this condition, including fees for registration and monitoring. The basis for this condition is Respondent's recognition that an evaluation by Florida Lawyers' Assistance, Inc. is needed to determine whether treatment may be appropriate.

2) Respondent agrees to participate in fee arbitration with his former client, Kristen Rhoad, provided that she requests fee arbitration within twelve (12) months of the date of the final Supreme Court Order in this proceeding. Respondent agrees to be bound by any such fee arbitration decision. Payment of any award in fee arbitration shall be paid in full. Respondent understands and acknowledges that neither this Conditional Guilty Plea nor any order entered in this proceeding shall in any way affect the rights or remedies of any of the clients in any civil proceeding.

3) Respondent shall attend Ethics School within six (6) months of the date of the final Supreme Court Order in this proceeding, and shall pay the \$750.00 registration fee.

V. 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), I considered the following personal history and prior disciplinary record of the respondent, to wit:

Year of Birth: December 28, 1946
Date Admitted to Bar: May 1, 1973
Prior Disciplinary convictions and Disciplinary
Measures Imposed Therein: Respondent was suspended for 60 days in
1994, in Supreme Court Case No. 82,014, TFB File No. 1992-10,931(12B).

The referee notes that the Respondent is not certified in any area of practice.

Aggravating Factors:

9.22 Factors which may be considered in aggravation. Aggravating factors include:

- (a) prior disciplinary offenses; provided that after 7 or more years in which no disciplinary sanction has been imposed, a finding of minor misconduct shall not be considered as an aggravating factor;
- (i) substantial experience in the practice of law;

Mitigating Factors:

9.32 Factors which may be considered in mitigation. Mitigating factors include:

- (b) absence of a dishonest or selfish motive;
- (c) personal or emotional problems;
- (l) remorse; and,
- (m) remoteness of prior offenses.

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 pursuant to Rule 3-7.6(q)(1)(I).... \$1,250.00

Total Amount Due to Date: \$1,250.00

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 _____ day of _____, 2009.

Honorable Elisabeth Adams, Referee

Copies furnished to:

Susan Varner Bloemendaal, Chief Branch Discipline Counsel, The Florida Bar, 4200 George J. Bean Parkway, Suite 2580, Tampa, Florida 33607-1496;

Stanley E. Marable, 677 N. Washington Blvd., Suite 2, Sarasota, Florida 34236-4241;

Kenneth Lawrence Marvin, Staff Counsel, The Florida Bar, 651 E. Jefferson Street, Tallahassee, Florida 32399-2300