

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

FILED
JOHN A. TOMASINO
OCT - 7 2014

CLERK, SUPREME COURT
BY _____

THE FLORIDA BAR,

CASE NO. SC14-1218

Complainant,

THE FLORIDA BAR

FILE NO. 2014-51,280(15E)FES

vs.

JANICE L. JENNINGS,

Respondent.

_____ /

REPORT OF THE REFEREE

I. SUMMARY OF THE FACTS/PROCEEDINGS

In May 2014, Janice L. Jennings, as counsel of record in a case pending in the United States District Court, Middle District of Florida, made a written filing to the court in response to a discovery matter, and subsequently appeared in person for a hearing, wherein she advised the court, among other things, that the government had caused the implantation of a microchip in her left ear that was designed to harm and disrupt her ability to function. When The Florida Bar learned of this conduct, it immediately sent Ms. Jennings a letter expressing concern and requested that she contact Florida Lawyers Assistance, Inc. ("FLA") to schedule a mental health evaluation. After an exchange of communications, Ms. Jennings refused that request.

On June 24, 2014, The Florida Bar filed the instant Petition for Emergency Suspension, which was subsequently granted by order of the Florida Supreme Court. Certain court orders followed that appointed the undersigned Pinellas County Judge as Referee.¹ The Respondent timely filed her Answer and Affirmative Defenses to the petition.

The Florida Bar moved, pursuant to paragraph c. of the Florida Supreme Court's order granting the Petition for Emergency Suspension, for the Referee to appoint a private psychologist or psychiatrist to evaluate the Respondent. As well, pursuant to the same order, paragraphs a. and b., The Florida Bar filed a motion to compel the Respondent to immediately schedule an evaluation with FLA. The undersigned Referee thereafter entered an order appointing Randolph Hemsath, M.D., to evaluate the Respondent on a particular date. By letter dated August 1, 2014, Dr. Hemsath stated that the Respondent was a "no show, no call" for the appointment. As well, the Respondent failed and/or refused to schedule an evaluation with FLA.

On August 27, 2014, the undersigned Referee conducted a telephonic case management conference with counsel for the parties. An order was subsequently entered setting the date, time, and location of the final hearing. On September 16,

¹ 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.

2014, a final hearing was held at the Palm Beach County Courthouse.² Counsel for both parties were present, along with Ms. Jennings.

Counsel for The Florida Bar presented the history of this case consistent with that provided in this report. In addition, The Florida Bar moved into evidence, among other things, the following: (1) Affidavit of Scott M. Weinstein, M.D., clinical director for FLA, who stated that Ms. Jennings at no time contacted FLA to schedule an evaluation; and (2) Affidavit of Maria Casco, legal assistant to Bar counsel, who recited a voice telephone message from Dr. Hemsath confirming that Ms. Jennings did not appear for her scheduled appointment or otherwise make any subsequent contact with his office.

The Florida Bar requested that the Respondent be suspended from the practice of law for an indefinite period of time for more than 90 days, pursuant to Rule 3-5.1(e), Rules of Discipline; and prior to any petition for reinstatement, under Rule 3-7.10, Rules of Discipline, that the Respondent be required to submit proof of compliance with previous court orders rendered herein that required mental health evaluations with FLA and Dr. Hemsath.

Counsel for the Respondent presented that Ms. Jennings was willing to “consent” to some form of withdrawing from the practice of law for an indefinite

² At the case management conference, counsel concurred that the appropriate venue for this matter was Palm Beach County.

period of time, subject to reinstatement as provided by Rule 3-7.10, Rules of Discipline. The Respondent was not agreeable to any language in the report that would reference a “suspension.” The Respondent proposed to be classified generally as an “inactive” member of the Florida Bar, under Rule 3-7.13 Rules of Discipline, but with no finding as to a mental illness or incapacity.

II. RECOMMENDATION

I recommend that the Respondent be suspended from the practice of law for an indefinite period of time for more than 90 days, under Rule 3-5.1(e), Rules of Discipline, subject to reinstatement pursuant to Rule 3-7.10, Rules of Discipline. In addition, as part of any reinstatement proceeding, it is recommended that the Respondent be ordered to immediately undergo a mental health evaluation with Florida Lawyers Assistance, Inc., as well as a psychiatric evaluation completed by a private psychiatrist appointed by the referee.


I would reject the Respondent’s suggestion to be designated generally “inactive,” under Rule 3-7.13 Rules of Discipline, relating to incapacity or mental illness. The Referee received no evidence in that regard as the Respondent refused any such evaluation (nor was she willing to stipulate to same).

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

I find the following costs were reasonably incurred:

Court Reporters' Fees	\$453.00
Bar Counsel Costs	\$88.67
Administrative Fee	\$1,250.00
Travel/Out of Pocket Expenses of Referee	\$340.47
Fee of Dr. Hemsath	\$250.00
 TOTAL	 \$2,382.14

It is recommended that such costs be charged to the Respondent and that interest at the statutory rate accrue and be deemed delinquent 30 days after the judgment in this case becomes final unless paid in full or otherwise deferred by the Board of Governors of The Florida Bar.


EDWIN B. JAGGER, Referee
545 1st Ave. North – 5th Floor
St. Petersburg, FL 33701

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original of the foregoing Report of Referee has been e-mailed to THE HONORABLE JOHN A. TOMASINO, Clerk, Supreme Court of Florida, and mailed to 500 South Duval Street, Tallahassee, Florida 32301, and that copies were mailed by regular U.S. Mail to ANDRIA E. QUINTELA, Staff Counsel, The Florida Bar, Lake Shore Plaza II, 1300 Concord Terrace, Suite 130, Sunrise, Florida 33323; RANDI KLAYMAN LAZARUS, Bar Counsel, The Florida Bar, Lake Shore Plaza II, 1300 Concord Terrace, Suite 130, Sunrise, Florida 33323; and DANIE VICTOR LAGUERRE, Counsel for Respondent, 3601 S.E. Ocean Boulevard, Suite 3, Stuart, Florida 34996-6737, on this 3RD day of October 2014.



EDWIN B. JAGGER, Referee