

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,
Complainant,

Supreme Court Case
No. SC19-1894

v.

The Florida Bar File
No. 2018-70,484 (11B)

TROY DONAHUE HARRIS,
Respondent.

/

MAY 11 2020

Received, Clerk, Supreme Court

REPORT OF REFEREE ACCEPTING CONSENT JUDGMENT

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, review of an Unconditional Guilty Plea and Consent Judgment for Discipline was undertaken. All the pleadings are forwarded with the report and the foregoing constitutes the record in this case.

The following attorneys acted as counsel for the parties:

On behalf of the Florida Bar: Keri T. Joseph, Esq.
The Florida Bar
444 Brickell Avenue, Suite M-100
Miami, Florida 33131

On behalf the Respondent: Calrie M. Marsh, Esq.
701 Brickell Avenue, Suite 1550
Miami, Florida 33131

Respondent's Unconditional Guilty Plea and Consent Judgment for Discipline (hereinafter "Consent Judgment") has been approved and signed by Respondent, his counsel, and Bar counsel, and provides that Respondent is to receive a 60-day suspension and pay The Florida Bar's disciplinary costs.

II. FINDINGS OF FACT

In his consent judgment, Respondent admits certain factual matters, which I hereby accept and adopt as the findings of fact in this cause, to wit:

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.

Narrative Summary of Case. Respondent was retained by Mr. Chukwudi Nwankwo and his spouse to assist them in immigration matters, to wit: file an I-130 (Petition for Alien Relative), I-485 (Application to Register Permanent Residence or Adjust Status), and I-765 (Application for Employment Authorization). Respondent was aware that Mr. Nwankwo was not eligible to adjust status through the I-485 petition based on his unlawful entry into the United States. Respondent contends that the purpose of filing this petition was so that Mr. Nwankwo could temporarily be issued an Employment Authorization Document and also to prompt the initiation of removal proceedings in order for Mr. Nwankwo to qualify for cancellation of removal and adjustment of status. Respondent also

filed several petitions for immigration relief, including, an I-580 Asylum Application and an EOIR 42-B, Application for Cancellation or Removal, and collected fees for his services. The initial I-130 petition that was filed November 20, 2005 was granted on January 22, 2007 by the USCIS. However, Respondent failed to adequately communicate with the National Visa Center and his client, and the petition was deemed abandoned. Respondent subsequently filed a second I-130 petition.

On or about March 28, 2012, the Miami Immigration Court issued a Notice to Appear for Mr. Nwankwo in removal proceedings. Respondent acknowledged that as a result of his actions, Mr. Nwankwo was placed in removal proceedings. A removal hearing was scheduled for June 12, 2017. However, Mr. Nwankwo failed to appear at the final hearing. Respondent called Mr. Nwankwo from Immigration Court to inquire of his whereabouts on June 12, 2017, and advised that an order of removal would be entered if Mr. Nwankwo did not show up. Mr. Nwankwo was ordered removed from the United States *in absentia*. Respondent failed to follow up with Mr. Nwankwo after the hearing date regarding the order of removal.

Respondent is remorseful and has taken remedial measures, such as executing an affidavit on behalf of his former client to support his appeal before the Board of Immigration Appeals and refunding \$4,000 in fees.

Respondent admits that his foregoing actions constitute a violation of the following Rules Regulating The Florida Bar: Rule 4-1.1 (Competence); 4-1.4 (Communication); and 4-1.5 (Fees and Costs for Legal Services).

III. RECOMMENDATIONS AS TO GUILT

I recommend that Respondent be found guilty of violating the following Rules Regulating The Florida Bar: **4-1.1** (Competence); **4-1.4** (Communication); and **4-1.5** (Fees and Costs for Legal Services).

Respondent will eliminate all indicia of Respondent's status as an attorney on social media, telephone listings, stationery, checks, business cards office signs or any other indicia of respondent's status as an attorney, whatsoever. Respondent will no longer hold himself out as a licensed attorney.

IV. STANDARDS FOR IMPOSING LAWYER SANCTIONS

I considered the following Standards prior to recommending discipline:

7.2 Suspension is appropriate when a lawyer knowingly engages in conduct that is a violation of a duty owed as a professional and causes injury or potential injury to a client, the public, or the legal system.

V. CASELAW

I considered the following cases to be the most analogous to the instant proceedings for the purpose of recommending discipline:

The Florida Bar v. Maier, 784 So. 2d 411 (2001) (approving a sixty-day suspension for failure to act with diligence in pursuing a client's application for alien labor certification, failure to keep the client reasonably informed, and failure to timely respond to Bar inquiries.)

VI. RECOMMENDATION AS TO DISCIPLINARY MEASURES TO BE APPLIED

Having reviewed the record of these proceedings, I find that Respondent's plea and the recommendation of The Florida Bar as to terms of discipline are both fair to Respondent and in the best interest of the public. Accordingly, I recommend that Respondent be found guilty of misconduct justifying disciplinary measures, and that he be disciplined by:

1. Sixty (60) day suspension; and
2. Payment of the Bar Disciplinary Costs.

VII. MITIGATION

I considered and found the following mitigation as set forth in the Consent Judgment in this cause:

9.32 Mitigation

9.32 Mitigating factors include:

- a) absence of a prior disciplinary record;
- b) timely good faith effort to make restitution or to rectify consequences of misconduct;

c) full and free disclosure to disciplinary board or cooperative attitude toward proceedings;

d) remorse (Respondent's Consent Judgment reflects that he is remorseful for his conduct and its impact on his client).

VIII. PERSONAL HISTORY AND PAST DISCIPLINARY RECORD

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

Age: 54

Date admitted to the Bar: May 22, 1997

Prior Discipline: No prior discipline

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

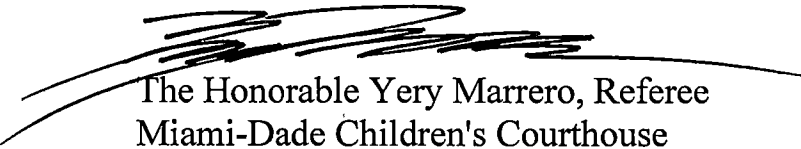
I find the following costs were reasonably incurred by The Florida Bar:

Administrative Fee Rule 3-7.6(q)(1)(I)	\$ 1,250.00
Attendance of Court Reporter for Hearing held on December 16, 2019	\$ 90.00
TOTAL	\$ 1,340.00

It is recommended that such costs be charged to Respondent and that interest at the statutory rate shall accrue and that should such cost judgment not be satisfied

within thirty 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 8TH day of May, 20 20



The Honorable Yery Marrero, Referee
Miami-Dade Children's Courthouse
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Miami, Florida 33128-1738

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