

IN THE SUPREME COURT OF FLORIDA  
(Before a Referee)

THE FLORIDA BAR,  
Complainant,

Supreme Court Case  
No. SC20-974

v.

The Florida Bar File Nos. 2019-30,691  
(9C) and 2019-30,789 (9C)

JOHN GILLESPIE,  
Respondent.

Received, Clerk, Supreme Court

DEC 14 2020

**CONDITIONAL GUILTY PLEA FOR CONSENT JUDGMENT**

COMES NOW, the undersigned respondent, John Gillespie, and files this Conditional Guilty Plea pursuant to Rule 3-7.9 of the Rules Regulating The Florida Bar.

1. Respondent is, and at all times mentioned herein was, a member of The Florida Bar, subject to the jurisdiction of the Supreme Court of Florida.
2. Respondent is acting freely and voluntarily in this matter and tenders this plea without fear or threat of coercion. Respondent is not represented by counsel.
3. As to The Florida Bar File Nos. 2019-30,691 (9C) and 2019-30,789 (9C), there have been findings of probable cause by grievance committee.
4. The disciplinary measures to be imposed upon respondent are as follows:

A. One-year suspension from the practice of law requiring proof of rehabilitation;

B. Payment of the bar's disciplinary costs.

5. Respondent acknowledges that, unless waived or modified by the Court on motion of respondent, the Court order will contain a provision that prohibits respondent from accepting new business from the date of the order or opinion and shall provide that the suspension is effective 30 days from the date of the order or opinion so that respondent may close out the practice of law and protect the interest of existing clients.

6. During the period of suspension, respondent agrees to 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.

7. The following allegations and rules provide the basis for respondent's guilty plea and for the discipline to be imposed in this matter:

A. In or around April 2019, Ms. Nixon filed a bar complaint alleging that respondent acted inappropriately while representing Ms. Nixon's adult daughter in two criminal matters. Ms. Nixon hired respondent to represent her daughter and paid him approximately \$1,500.00.

B. Ms. Nixon alleged that following her daughter's release from jail, and during the representation, respondent engaged in a sexual relationship with Ms. Nixon's daughter and ultimately fathered her child.

C. Respondent was aware that Ms. Nixon's daughter had a history of abusing drugs and continued to use drugs when not incarcerated. Furthermore, during the criminal proceedings in which respondent represented Ms. Nixon's daughter, respondent alleged that his client was incompetent to proceed to trial.

D. On or about February 21, 2018, respondent filed a motion on behalf of Ms. Nixon's daughter alleging that his client was "incapable of assisting her attorney in the preparation for and trial of her case" and alleging that she "has a long history of mental illness."

E. In March 2019, while respondent remained counsel of record for Ms. Nixon's daughter in 49-2017-CF-00369, Ms. Nixon's daughter gave birth to a child and gave the child respondent's last name.

F. In his response to the bar, dated May 17, 2019, respondent admitted that Ms. Nixon's daughter gave birth to a boy and gave the newborn his last name but claimed that he was not involved in naming the child.

G. In his response to the bar, dated May 17, 2019, respondent asserted, "However, even if this child were mine and even if I had had some kind of physical contact with her daughter, that would not be a violation of the Attorney's Code of Ethics unless it had adversely affected her daughter's case." Respondent further stated "[i]f necessary, [Ms. Nixon's] daughter will provide an affidavit stating there was never a sexual relationship."

H. After respondent's initial response to the bar, a paternity test revealed that respondent is the biological father of Ms. Nixon's grandson.

I. Respondent subsequently admitted that he had sex with Ms. Nixon's daughter while he was her counsel of record in an Osceola County criminal case but maintained that the relationship in no way compromised his ability to represent the daughter.

J. During his sworn statement in the bar proceeding, respondent testified that he revealed compromising information after he began representing Ms. Nixon's daughter. Respondent stated, "I put the word out that [Ms. Nixon's daughter] was an informant in Daytona Beach, and I – and when she would walk into a place, like a drug – some type of drug place, people would scatter like roaches. 'Cause I put the word out that she was an informant, so nobody would deal with her."

K. In addition, in or around March 2019, the Department of Children and Families removed and sheltered two children, one of which was Ms. Nixon's grandson, from respondent's home in Osceola County, Florida.

L. After the child's removal in March 2019, respondent continued to represent Ms. Nixon's daughter in the Osceola County criminal matter, case number 49-2017-CF-3369, and filed a notice of appearance on behalf of Ms. Nixon's daughter in a Brevard County misdemeanor case 05-2019-MM-41142.

M. On or about August 15, 2019, the Brevard County misdemeanor case was amended to a felony by the State Attorney's Office, and the matter was transferred to Circuit Court and assigned case number 05-2019-CF-041142.

N. In case number 05-2019-CF-041142, on or about December 14, 2019, respondent filed a Motion for Psychiatric Examination to Determine Competence to Proceed alleging that Ms. Nixon's daughter was incompetent to proceed to trial.

O. Respondent remained as counsel of record for Ms. Nixon's daughter in 05-2019-CF-041142 until the trial judge granted a substitution of counsel on February 25, 2020.

P. The dependency court matter involving respondent and Ms. Nixon's daughter remains pending.

Q. Pursuant to this Conditional Guilty Plea, respondent admits to violating the following Rules Regulating The Florida Bar: 3-4.3 [Misconduct and Minor Misconduct]; 4-1.7(a) [Conflict of Interest; Current Clients]; 4-1.8(b) [Conflict of Interest; Prohibited and Other Transactions]; 4-1.9(b), (c) [Conflict of Interest; Former Client]; 4-8.1(a) [Bar Admission and Disciplinary Matters]; and, 4-8.4(d), (i) [Misconduct].

8. In mitigation, respondent does not have a prior disciplinary history [Florida Standards for Imposing Lawyer Sanctions 3.3(b)(1)]; and, respondent was suffering from personal and mental health problems during the time that the misconduct occurred [3.3(b)(3), (8)]. In aggravation, respondent engaged in a pattern of misconduct [3.2(b)(3)]; respondent's client was vulnerable as she was facing criminal charges [3.2(b)(8)]; and, respondent has substantial experience in the practice of law, admitted in 1998 [3.2(b)(9)].

9. The Florida Bar has approved this proposed plea in the manner required by Rule 3-7.9.

10. If this plea is not finally approved by the referee and the Supreme Court of Florida, then it shall be of no effect and may not be used by the parties in any way.

11. If this plea is approved, then respondent agrees to pay all reasonable costs associated with this case pursuant to Rule 3-7.6(q) in the amount of \$3,953.46. These costs are due within 30 days of the Court order. Respondent agrees that if the costs are not paid within 30 days of this Court's order becoming final, respondent shall pay interest on any unpaid costs at the statutory rate. Respondent further agrees not to attempt to discharge the obligation for payment of the bar's costs in any future proceedings, including but not limited to, a petition for bankruptcy. Respondent shall be deemed delinquent and ineligible to practice law pursuant to Rule 1-3.6 if the cost judgment is not satisfied within 30 days of the final Court order, unless deferred by the Board of Governors of The Florida Bar.

12. Respondent acknowledges the obligation to pay the costs of this proceeding and that payment is evidence of strict compliance with the conditions of any disciplinary order or agreement, and is also evidence of good faith and fiscal responsibility. Respondent understands that failure to pay the costs of this proceeding or restitution may reflect adversely on any reinstatement proceedings or any other bar disciplinary matter in which respondent is involved.

13. If this plea is approved, and restitution is owed, if the person to whom restitution is owed cannot be located after a diligent search, respondent shall execute an affidavit of diligent search and provide same to The Florida Bar and shall pay the full amount of the restitution to the Clients' Security Fund of The

Florida Bar within 30 days of the date of the affidavit of diligent search.

14. This Conditional Guilty Plea for Consent Judgment fully complies with all requirements of the Rules Regulating The Florida Bar.

Dated this 10 day of December, 2020.



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Dated this 10 day of December, 2020.



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