

IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR,

Complainant,

v.

JOHN GILLESPIE,

Respondent.

Supreme Court Case

No. SC-

The Florida Bar File Nos.

2019-30,691(9C) and 2019-30,789(9C)

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**COMPLAINT**

The Florida Bar, complainant, files this Complaint against John Gillespie, respondent, pursuant to the Rules Regulating The Florida Bar and alleges:

1. Respondent is and was at all times mentioned herein a member of The Florida Bar, admitted on October 23, 1998, and is subject to the jurisdiction of the Supreme Court of Florida.

2. Respondent practiced law in Osceola County, Orange County, and Brevard County, Florida, at all times material.

3. The Ninth Judicial Circuit Grievance Committee "C" found probable cause to file this complaint pursuant to Rule 3-7.4, of the Rules Regulating The Florida Bar, and this complaint has been approved by the presiding member of that committee.

4. In or around April 2019, Ms. Nixon filed a bar complaint alleging that

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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.

5. 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.

6. From the onset of the legal representation, respondent was aware that Ms. Nixon's daughter had a history of abusing drugs and continued to use drugs when not incarcerated.

7. Furthermore, during the criminal proceedings in which respondent represented Ms. Nixon's daughter, respondent alleged that she was incompetent to proceed to trial.

8. 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."

9. 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.

10. 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.

11. 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."

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

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

14. However, 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.”

15. 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.

16. 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.

17. While the dependency proceeding was still pending, respondent also filed a notice of appearance on behalf of Ms. Nixon’s daughter in a Brevard County misdemeanor case 05-2019-MM-41142, on or about August 15, 2019, that was later 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.

18. 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 once again incompetent to proceed to trial.

19. 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.

20. Currently, the dependency case remains pending with respondent and

Ms. Nixon's daughter as parties in the proceeding and the child remains in foster care.

21. By reason of the foregoing, respondent has violated the following Rules Regulating The Florida Bar:

a. 3-4.3 The standards of professional conduct to be observed by members of the bar are not limited to the observance of rules and avoidance of prohibited acts, and the enumeration herein of certain categories of misconduct as constituting grounds for discipline shall not be deemed to be all-inclusive nor shall the failure to specify any particular act of misconduct be construed as tolerance thereof. The commission by a lawyer of any act that is unlawful or contrary to honesty and justice, whether the act is committed in the course of the attorney's relations as an attorney or otherwise, whether committed within or outside the state of Florida, and whether or not the act is a felony or misdemeanor, may constitute a cause for discipline.

b. 4-1.7(a) Except as provided in subdivision (b), a lawyer shall not represent a client if: (1) the representation of 1 client will be directly adverse to another client; or (2) there is a substantial risk that the representation of 1 or more clients will be materially limited by the lawyer's responsibilities to another client, a former client or a third person or by a

personal interest of the lawyer.

c. 4-1.8(b) A lawyer is prohibited from using information relating to representation of a client to the disadvantage of the client unless the client gives informed consent, except as permitted or required by these rules.

d. 4-1.9(b) A lawyer who has formerly represented a client in a matter must not afterwards use information relating to the representation to the disadvantage of the former client except as these rules would permit or require with respect to a client or when the information has become generally known.

e. 4-1.9(c) A lawyer who has formerly represented a client in a matter must not afterwards reveal information relating to the representation except as these rules would permit or require with respect to a client.

f. 4-8.1(a) An applicant for admission to the bar, or a lawyer in connection with a bar admission application or in connection with a disciplinary matter, shall not knowingly make a false statement of material fact.

g. 4-8.4(d) A lawyer shall not engage in conduct in connection with the practice of law that is prejudicial to the administration of justice, including to knowingly, or through callous indifference, disparage, humiliate, or discriminate against litigants, jurors, witnesses, court

personnel, or other lawyers on any basis, including, but not limited to, on account of race, ethnicity, gender, religion, national origin, disability, marital status, sexual orientation, age, socioeconomic status, employment, or physical characteristic.

h. 4-8.4(i) A lawyer shall not engage in sexual conduct with a client or a representative of a client that exploits or adversely affects the interests of the client or the lawyer-client relationship. If the sexual conduct commenced after the lawyer-client relationship was formed it shall be presumed that the sexual conduct exploits or adversely affects the interests of the client or the lawyer-client relationship. A lawyer may rebut this presumption by proving by a preponderance of the evidence that the sexual conduct did not exploit or adversely affect the interests of the client or the lawyer-client relationship. The prohibition and presumption stated in this rule do not apply to a lawyer in the same firm as another lawyer representing the client if the lawyer involved in the sexual conduct does not personally provide legal services to the client and is screened from access to the file concerning the legal representation.

WHEREFORE, The Florida Bar prays respondent will be appropriately disciplined in accordance with the provisions of the Rules Regulating The Florida Bar as amended.

Respectfully submitted,



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## **CERTIFICATE OF SERVICE**

I certify that this document has been E-filed with The Honorable John A. Tomasino, Clerk of the Supreme Court of Florida, with a copy provided via email to John Gillespie, at [gillespie@lawjg.com](mailto:gillespie@lawjg.com); and that a copy has been furnished by United States Mail via certified mail No. 7017 1070 0000 4774 2814, return receipt requested to John Gillespie, Respondent, at his record bar address of 115 Hickory Street, Suite 206, Melbourne, Florida 32904-3505, and by First Class U.S. Mail to John Gillespie, Respondent, Inmate No. 20009561 MPOD-E, P.O. Box 4970, Orlando, Florida 32802-4970; and via email to Karen Clark Bankowitz, Bar Counsel, [kbankowitz@floridabar.org](mailto:kbankowitz@floridabar.org), on this 10th day of July, 2020.



Patricia Ann Toro Savitz  
Staff Counsel

**NOTICE OF TRIAL COUNSEL AND DESIGNATION OF PRIMARY  
EMAIL ADDRESS**

PLEASE TAKE NOTICE that the trial counsel in this matter is Karen Clark Bankowitz, Bar Counsel, whose address, telephone number and primary email address are The Florida Bar, Orlando Branch Office, The Gateway Center, 1000 Legion Place, Suite 1625, Orlando, Florida 32801-1050, (407) 515-3248 and [kbankowitz@floridabar.org](mailto:kbankowitz@floridabar.org). Respondent need not address pleadings, correspondence, etc. in this matter to anyone other than trial counsel and to Staff Counsel, The Florida Bar, 651 E Jefferson Street, Tallahassee, Florida 32399-2300, [psavitz@floridabar.org](mailto:psavitz@floridabar.org).

**MANDATORY ANSWER NOTICE**

RULE 3-7.6(h)(2), RULES REGULATING THE FLORIDA BAR,  
PROVIDES THAT A RESPONDENT SHALL ANSWER A COMPLAINT.