

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,

Supreme Court Case

No. SC2024-0149

Complainant,

The Florida Bar File

v.

No. 2023-00,300(14)

CLAYTON BOWERS STUDSTILL,

Respondent.

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REPORT OF REFEREE

I. SUMMARY OF PROCEEDINGS:

On January 31, 2024, The Florida Bar filed its complaint against respondent and the undersigned has served as the Referee in the case. Respondent served an answer to the complaint on March 13, 2024.

During the course of these proceedings, Respondent was represented by Richard A. Greenberg and The Florida Bar was

represented by Olivia Klein, Shaneé L. Hinson, and Lauren Williams, Bar Counsel.

The final hearing was held on Tuesday, April 22, 2025, and Wednesday, April 23, 2025. All of the pleadings, responses thereto, exhibits received in evidence, and this report constitute the record in this case and are forwarded to the Supreme Court of Florida.

II. FINDINGS OF FACT:

A. Jurisdictional Statement: Respondent is, and at all pertinent times was, a member of The Florida Bar subject to the jurisdiction and disciplinary rules of the Supreme Court of Florida. B.

Narrative Summary of Case:

Mr. Studstill was counsel of record for the respondent in the case of Timothy Joseph Galvin, Petitioner, v. Cassie Alana Turner [now Cassie Studstill], Respondent, case no. 2017-DR-012388, in the Circuit Court of the Ninth Judicial Circuit, in and for Orange County, Florida (Galvin case). His co-counsel in the Galvin case was Dorothy McMichen, a board-certified marital and family law attorney with 42 years' experience in the practice of law.

The Galvin case was scheduled for trial the week of June 6, 2022. On Friday, June 3, 2022, Mr. Studstill and Ms. McMichen met in Orlando to finalize preparations for the trial. The two attorneys had divided up the witnesses and other facets of the case. After having dinner together on June 3, 2022, Mr. Studstill and Ms. McMichen returned to her office to continue to prepare for trial. Ms. McMichen noticed that Mr. Studstill looked different (red-faced) and acted different. Mr. Studstill left early that evening and agreed to return to her office the following morning around 9 a.m.

Mr. Studstill did not return to Ms. McMichen's office on the morning of Saturday, June 4, 2022. Instead, he went to Guidewell Emergency Doctors in Ocoee, Florida, arriving at 10:24 a.m. Mr. Studstill was then diagnosed positive with COVID-19. (Respondent's Exhibit 5 (Bates-stamp 83)).

Ms. McMichen learned about Mr. Studstill's positive COVID test around noon on Saturday, June 4, 2022. The following evening, at 9:16:36 PM, she filed a Motion to Continue the Galvin case. The motion stated "Mr. Studstill is contagious and has been rendered quite ill and unable to complete preparations for and/or attend trial. Co-counsel [Mr. Studstill] is essential to the representation of the

Respondent/Mother at the trial of this matter, as each attorney has concentrated on different aspects/witnesses of the trial.” The motion also noted that “[t]he Respondent/Mother presently is sneezing, coughing, runny nose, and other cold-like symptoms. The Mother also has developed a rash and has been medically ordered by her doctor to isolate for three (3) days.” (Respondent’s Exhibit 1)

On the morning of June 6, 2022, a hearing was held on the Motion to Continue before Judge Michael Kraynick. At the beginning of the hearing, Judge Kraynick told Ms. McMichen that “to the extent that you’re able to get Mr. Studstill, I need to speak to him as well.” Ms. McMichen replied, “He’s in bed. Yeah. I heard him in the background. He is almost delirious.” (Joint Exhibit 57, Bates stamp 856)

After Mrs. Studstill testified during the hearing on June 6, 2022, about Mr. Studstill’s condition, and the fact he had been in bed sleeping since being diagnosed with COVID-19 on June 4, 2022, Judge Kraynick ordered Mrs. Studstill to “rise him”. (Joint Exhibit 57, Bates stamp 871). Judge Kraynick further stated:

“I understand that there is a quote positive COVID test and I understand your testimony. And I understand Ms. Studstill's

testimony. The best evidence of Mr. Studstill's condition would be Mr. Studstill himself. I need to see him, and I need to speak to him”. (Joint Exhibit 57, Bates stamp 871-2).”

Mr. Studstill was awakened to confirm his COVID status with Judge Kraynick. Mrs. Studstill testified how she had to expose herself to her husband’s COVID by taking her laptop into his room and placing it in his lap. Mrs. Studstill previously testified that she was in and out of the room Mr. Studstill occupied as his sick room, in order to check on him, administer medication, etc. She wore a mask at all times while in the room with Mr. Studstill.

During the trial before me, Mr. Studstill was described as being either shirtless, in his “skivvies”, or wearing a T-shirt when he testified during the hearing on June 6, 2022. Timothy Galvin specifically testified that respondent was wearing an FSU T-shirt. Mrs. Studstill could not recall, but agreed that he was possibly wearing a T-shirt.

At the conclusion of the hearing on June 6, 2022, Judge Kraynick granted the motion to continue in part and denied it in part. The trial was continued from June 6 to June 8. In addition, Judge Kraynick stated the following:

“The trial will be in a blended format. Respondent and respondent's Counsels, both Ms. McMichen and Mr. Studstill, will be able to participate through the WebEx link. All other persons shall appear in person for trial... All parties are advised to follow any CDC quarantine procedures that are currently in effect.” (Joint Exhibit 57, Bates stamp 925)

A written order on the motion to continue was not filed until June 20, 2022, almost two weeks after the incidents which gave rise to the Bar’s complaint. (Joint Exhibit 42, Bates stamp 448-451) Both Ms. McMichen and Mrs. Studstill were present for the judge’s verbal ruling.

Mr. Studstill testified that, although he was still actively sick with COVID-19 and should have been resting, he spent Tuesday, June 7, 2022, preparing for trial. He appeared virtually for the proceedings on Wednesday, June 8, 2022, where he personally testified and conducted the direct examination of one witness.

Mr. Studstill’s co-counsel, Dorothy McMichen, as well as Guardian Ad Litem, Mary Ann Etzler, Opposing Counsel, Douglas Dorner and Opposing Party/Father, Timothy Galvin, all testified that Mr. Studstill had no apparent issues and there were no visible signs

that he was unwell. Mr. Studstill testified that he told the judge he was feeling better on June 8, 2022.

On Thursday, June 9, 2022, Mr. Studstill believed he had no choice but to appear in person for the trial. A key witness, Dr. Lisa Bidwell, was testifying that day. The record shows there were approximately 10,000 emails Mr. Studstill wanted to get into evidence and Dr. Bidwell was appearing in person to testify.

In his response to the initial grievance (Joint Exhibit 26, Bates stamp 315-320) and his Answer to the Formal Complaint (Joint Exhibit 19, Bates stamp 265-271), Mr. Studstill asserted that he appeared in person on June 9, 2022, because he was directed to do so by Judge Kraynick. When questioned during the bar's case in chief, Mr. Studstill reiterated this assertion. When confronted with Judge Kraynick's order on the motion to continue (Joint Exhibit 4, Bates stamp 14-17), Mr. Studstill testified that he appeared in person on June 9, 2022, because his co-counsel and client/wife demanded he do so. This was contradicted by Ms. McMichen, who confirmed that Mr. Studstill was allowed to appear virtually and that she never requested he appear in person on June 9, 2022.

On direct examination by his counsel, Mr. Studstill testified that Judge Kraynick previously issued an order requiring all evidence be handled in person and he was merely following that order. At the hearing held on June 6, 2022, the judge made the ruling referenced above that Mr. Studstill and Ms. McMichen could participate via WebEx.

When Mr. Studstill arrived at the courthouse on the morning of June 9, 2022, he was not fully recovered from COVID. At one point, he asked Dr. Bidwell if she felt the building “swaying”, since he was apparently having that feeling. Mr. Studstill was able to question Dr. Bidwell, enter some exhibits into evidence, and respond to objections. His co-counsel, Ms. McMichen, testified that she was surprised at how “incredible” he looked.

During Dr. Bidwell’s testimony, an issue arose regarding the authentication of text messages. She was asked to wait in the hallway until the documents could be authenticated by Mrs. Studstill. Prior to her departure from the courtroom, the judge invoked the rule of sequestration, explained what that meant, and asked if she understood. Dr. Bidwell acknowledged that she understood.

Mr. Studstill remained in the courtroom while Ms. McMichen questioned Mrs. Studstill about the emails. As the examination was wrapping up, Mr. Studstill grabbed a stack of papers off his table and exited the courtroom. After the judge adjourned for lunch, everyone proceeded to leave the courtroom. Both Ms. Etzler and Mr. Dorner testified that they observed Mr. Studstill sitting with Dr. Bidwell and talking to her. This prompted Mr. Dorner to return to the courtroom and notify the bailiff that he needed to address something with the judge.

After Mr. Dorner explained what he witnessed, Judge Kraynick called Mr. Studstill back into the courtroom and questioned him about his conduct. Mr. Studstill told the judge that he was releasing Dr. Bidwell as a witness and wishing her well. (Joint Exhibit 60, Bates stamp 1311) He further stated "I thought that she would be coming back to testify after the communications had been authenticated. Absent the authentication, I was trying to turn off the meter and release the witness." (Joint Exhibit 60, Bates stamp 1311)

In response, the judge asked "How do I know that you were not out there talking to her about what exhibits were entered and what were not, and now you're telling me you're releasing her without Mr.

Dorner even having the opportunity to cross examine her? You could understand the Court's frustration, right?" (Joint Exhibit 60, Bates stamp 1313)

Mr. Studstill responded "Yes, Your Honor, and I had not released the witness - - That was my goal in going outside to make sure she was here and speak to her about - -" (Joint Exhibit 60, Bates stamp 1313).

The judge then called Dr. Bidwell back into the courtroom. When questioned about her conversation with Mr. Studstill, she stated "He was talking about the text messages that weren't admitted for my -- in my analysis." "he was referencing the exhibit numbers that he thought weren't coming in." When questioned further, she informed the court that Mr. Studstill had not had any conversation with her about releasing her as a witness. (Joint Exhibit 60, Bates stamp 1318).

The judge then addressed Mr. Studstill and inquired why he would lie to the tribunal. In response, Mr. Studstill stated that he did not believe he lied to the tribunal, but he agreed "that there must not have been proper candor." (Joint Exhibit 60, Bates stamp 1320-1321) Mr. Studstill also said, "In that moment, I did not recall properly";

and that he was paying attention “To the best of my ability.” (Joint Exhibit 60, Bates stamp 1322-1323)

The judge released everyone for the lunch break. Upon the trial resuming, Mr. Studstill was not present in the courtroom. When the court inquired about his whereabouts, Ms. McMichen informed the judge that Mr. Studstill was not feeling well and left to seek medical attention. The judge requested he return to the court.

When he returned to the courtroom, Mr. Studstill told the judge:

“My client and my co-Counsel indicated that I did not look well. I do not feel well and that I needed to go get checked out before returning to work.” (Joint Exhibit 61, Bates stamp 1356)

He also told the judge, “I do not feel like I’m making very good decisions at that moment, and that my ability to practice at the moment is hampered.” “I think I’ve got some COVID brain.” “I am not ready to return to work and do not believe that I am.” (Joint Exhibit 61, Bates stamp 1357-1358)

After this exchange with Mr. Studstill, the judge released him.

The evidence shows that immediately after leaving the Orange County Courthouse on June 9, 2022, Mr. Studstill returned to Guidewell Emergency Doctors. He arrived at 1454 (2:54 p.m.)

complaining of “not thinking right”. (Respondent’s Exhibit 4, Bates stamp 64) He was then instructed to “go to ED now” to rule out having suffered a Transient Ischemic Attack (a stroke). (Respondent’s Exhibit 4, Bates stamp 65).

Mr. Studstill was admitted to Orlando Health Hospital on the afternoon of June 9, 2022. His admission records show an “Active” problem of COVID-19 and that it was possible he was “experiencing brain fog.” (Respondent’s Exhibit 4, Bates stamp 70)

In addition, the records show Mr. Studstill presented “with acute confusional state and executive function disturbance. Most likely this is delirium related to COVID-19 although Transient Ischemic Attack is possible.” (Respondent’s Exhibit 4, Bates stamp 77)

Mr. Studstill testified that he took an at-home Covid test on the evening of June 8, 2022, and again tested positive. However, he appeared in court on June 9, 2022, without notifying the court of his status.

Mr. Studstill was discharged from the hospital on June 10, 2022. The discharge summary for Mr. Studstill states his admitting diagnosis was COVID-19. The summary further states he “[r]eturned

to work too soon after Covid-19 while still symptomatic.” (Respondent’s Exhibit 4, Bates stamp. 78).

Dr. Khurram Nazir, a board certified neurologist, testified as an expert witness for Mr. Studstill. Dr. Nazir reviewed all of Mr. Studstill’s medical records from treating physicians in Orlando and also met with Mr. Studstill in July 2024. In Dr. Nazir’s opinion, Mr. Studstill was suffering from delirium on June 9, 2022, and should not have been working. As Dr. Nazir testified, a person suffering from delirium may appear “normal” one moment and have loss of executive function the next.

In reaching my decision in this case I considered the testimony of the various witnesses and the exhibits introduced by the parties. After considering all of the evidence introduced during the final hearing, I find the following:

This is a very odd case for many reasons. I have had the benefit of listening to all the testimony and reviewing the evidence for two days to reach the conclusion and recommendation I make to the Supreme Court.

There's no question that the statements made by Mr. Studstill and his behavior in and of themselves on the record on June 9, 2022, are both a violation of the judge's order of sequestration, which is very clear on the record, and is a violation of the disciplinary rule of not being honest and candid with the court.

On their face the statements are clearly that. Normally, that would be the end of the discussion. We'd be moving to a sanctions hearing, and that'd be that. That's not where we are here by a long shot. There are a whole lot of oddities.

This case should never have happened. I've been a judge close to 26 years and have been the Chief Judge for the Tenth Judicial Circuit the last almost two years.

I have never seen a situation like this one. COVID was a very divisive kind of thing. There were people in the Polk County Courthouse, certain colleagues of mine, and I very much disagreed with them on a lot of things regarding COVID. I'm sure that was every Circuit around this state, but I've never had a situation where I, as a judge, have ever questioned a lawyer who told me they were ill or sick or whatever. I might have been frustrated because the case couldn't

get tried, it might have been frustrating because the case might have been an older case, but I've never asked for some lawyer's medical records, ever. I've never done that. I've never questioned the lawyer. In this case, it was more than that. This is the background.

One, Mr. Studstill tests positive for COVID on June 4, 2022. He tests positive not with a home test, but with a test from a medical facility. Dorothy McMichen, Mr. Studstill's co-counsel, files the next day a motion for continuance, which would be the norm.

The lawyer on the other side (Mr. Dorner) and his client do not agree to a continuance. Quite frankly, I don't necessarily fault Mr. Dorner. He may have been in a position like a lot of lawyers are in cases involving family law situations. I both practiced family law as a lawyer and as a judge. There are circumstances where your client absolutely will not agree to a continuance unless a judge orders it to be continued. I understand that.

The next morning (June 6, 2022) is when things start breaking down in my opinion. Judge Kraynick listens to the motion for continuance and decides he wants to see Mr. Studstill in bed. I don't think I've heard of that one before. Mr. Studstill is sick. He's in bed

and he's clearly tested positive for COVID. He's on a bunch of medications. The judge wants to see him.

The trial judge partially grants and partially denies the continuance. The trial is then scheduled to start on June 8, 2022. The judge does give Mr. Studstill, Mrs. Studstill, and Ms. McMichen the right to appear virtually or in person.

On the 8th, Mr. Studstill seems to be somewhat better by what people observed. He appears virtually and basically goes through what I call routine witnesses for family law cases. And he testified and I certainly understand you put on witnesses often in a family law dispute where you're dealing with a parenting plan situation where what you have to do is call witnesses to talk about what a good parent your client is, how they interact with the child, all those things that are usually testified to. Frankly, most of the time when I was a lawyer on the other side, unless I had something really good, I wasn't even going to cross-examine somebody on that, because there's just nothing to argue about.

Mr. Studstill testified he tested positive for COVID again on the night of June 8th. He has also testified that he was quite intimidated

by the trial judge. I don't know whether that's objectively the case or it's just in his mind at the time being that he was ill and the events that occurred.

In any event, he's testing positive for COVID and he goes to court the next morning. I understand why he went to court. If you're going to have to try the case, you've got a witness with 10,000 emails, you have to have the evidence physically in court, you're going to want to be in the courtroom.

Mr. Studstill certainly should have advised the court that morning and argued to the court through either Ms. McMichen or himself that, one, he had no business being in court, and two, he couldn't effectively function doing this virtually as a lawyer, but he didn't do that. Instead, we go through the morning and the process.

At some point on June 9, 2022, Mr. Studstill winds up deteriorated. Apparently at some point during the morning, he's on a number of medications, some of them prescriptions, some of them over-the-counter, whatever mixture they are, and there's all kinds of medical records in evidence. We then get to the situation which led to this case.

Rightfully so, Judge Kraynick said, we're going to pause Dr. Bidwell's testimony because the foundation for all these emails hadn't been laid, and we'll put her outside and if you can lay the foundation then we can bring her back. It's pretty typical that sometimes you take witnesses out of order.

They're in the middle of the testimony of Mrs. Studstill to authenticate these emails, and Mr. Studstill walks outside and has a conversation in violation of the sequestration order with Dr. Bidwell. That makes no sense to me at all for a person in their right mind. Especially a lawyer.

Why am I, as a lawyer, going to walk outside the courtroom and start talking to a witness out there? Number one, it's a violation of the judge's order, but that's beside the point. And start talking to them about what is or isn't coming into evidence when the judge hasn't even made a ruling? That doesn't make any sense whatsoever. It is absolutely nonsensical. It just wouldn't even begin to make sense.

Mr. Studstill compounds the problem by, when being addressed by the judge, well, what did you say to her? Well, I told her to go

home. Why would he tell her to do that either? She's not been excused, but that's beside the point. By the witness going home, it would torpedo his own case. It would make no sense for him to do that either. It makes no logical sense.

And I'm putting all this in this report to hopefully make it real clear to the Supreme Court Justices when they look at this, that this just doesn't make any sense, and why it doesn't make any sense, and it just basically doesn't make any sense in this situation.

Mr. Studstill is called on the carpet and, whether I agree or disagree with Judge Kraynick's initial decision to push the Galvin case forward, he is absolutely correct in what he's seeing there at the time and he's getting an inconsistent statement from Mr. Studstill. He's quite unhappy, and I get that. In most circumstances, I would have been very unhappy with any lawyer doing that. So I don't take any issue with the judge in that situation at that point.

Mr. Studstill winds up that day having to go back to the medical facility where he was first diagnosed with COVID. They send him to the hospital. He spends the night in the hospital, where he apparently tested positive there for COVID. So now we're in a situation where,

obviously, under CDC rules, he couldn't come back until the middle of the next week if you were in that situation. He certainly didn't come back, and the trial got continued on the 10th of June.

Based on all of the evidence, and based on the testimony of Dr. Nazir and of the witnesses, there's a lot of conflicting testimony. There's conflicting testimony about how Mr. Studstill was doing, how was he reacting to things, how was he responding.

But based on all that, I'll make it fairly simple. I'll summarize it. I loathe generally to excuse anybody lying to the Court. But in this case, given the circumstances, given the issue, and given where we are, I can't find on the record and feel comfortable that Mr. Studstill knowingly made these statements. The statements he made that were both inappropriate and untruthful make no sense for him to have made in his normal right mind.

They don't logically help his case. Most people when they lie, lie to help themselves or lie to help their client, unfortunately. That's what they do. This makes no sense because none of this was going to do anything to help Mr. Studstill at all. It never was going to make any sense.

The witness, Dr. Bidwell, was a very important witness in the Galvin case. She was going to talk about the serious problems and communication between Mr. Studstill's wife and her then boyfriend involving their child. And that was going to be one of the big issues they were going to raise in the case regarding what the parenting plan should have been. And Mr. Studstill's own actions, again, make no logical sense. His statements would have made no logical sense. Nothing about it makes logical sense.

Based upon all of the evidence, I recommend that the bar's complaint be dismissed and that Mr. Studstill be found not guilty of violating any provisions of the Rules Regulating The Florida Bar. Ultimately, aside from my ruling in the case, it's just unfortunate that this situation developed at all because had the case simply been continued for a month, this case would not be here.

I would also add nothing I've heard about Mr. Studstill suggested this was in any way, shape, or form consistent with his behavior in the 20 years he's practiced law. That's another factor I considered as well.

III. RECOMMENDATIONS AS TO GUILT:

Based upon the evidence presented at the final hearing, I recommend that Mr. Studstill be found not guilty of violating the following provisions of the Rules Regulating The Florida Bar cited in the Bar's Complaint:

1. 4-3.3(a)(1) [Candor Toward the Tribunal] and 4-3.4(c) [Fairness to Opposing Party and Counsel].

2. I find that The Florida Bar failed to prove these alleged rule violations by clear and convincing evidence.

IV. RECOMMENDATION AS TO ANY DISCIPLINARY MEASURES TO BE APPLIED:

Based upon my recommended findings of fact that Mr. Studstill is not guilty of violating any provisions of the Rules Regulating The Florida Bar, I recommend that no discipline be imposed and this case be dismissed.

V. PERSONAL HISTORY AND PAST DISCIPLINARY RECORD:

After making the foregoing findings, I considered the following personal history and prior disciplinary record of respondent, to wit:

Age: 49

Date admitted to The Florida Bar: October 10, 2005

Prior disciplinary record: None.

VI. STATEMENT OF COSTS AND MANNER IN WHICH COSTS SHOULD BE TAXED:

It is recommended that each party bear their own costs.

DONE AND ORDERED at Bartow, Polk County, Florida on this
21st day of May, 2025.

/s/James A. Yancey

HON. JAMES ALAN YANCEY, REFEREE

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