

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,
Complainant,

Supreme Court Case
No. SC23-0387

v.

The Florida Bar File
No. 2020-50,072(15E)

MARC S. REINER,
Respondent.

Received, Clerk, Supreme Court

AUG 11 2023

REPORT OF REFEREE ACCEPTING CONSENT JUDGMENT

I. **SUMMARY OF PROCEEDINGS**

A. Pursuant to the undersigned being duly appointed as referee to conduct disciplinary proceedings herein according to Rule 3-7.6, Rules of Discipline, the following proceedings occurred:

B. On March 17, 2023, The Florida Bar filed its Complaint against respondent. The parties have presented me with a Conditional Guilty Plea for Consent Judgment, which has been approved by The Florida Bar and The Florida Bar Board of Governors' designated reviewer. After due deliberation, I have determined to recommend that respondent's Conditional Guilty Plea for Consent Judgment be approved, for the reasons set forth herein. 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. Respondent was initially represented by Kevin Tynan, Esq., until his withdrawal on May 10, 2023. The respondent then proceeded *pro se*. The Florida Bar was represented by Randi Klayman Lazarus, Atty.

II. FINDINGS OF FACT

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.

B. Narrative Summary of Case.

1. The respondent represented Alicia Mattson in several criminal matters.
2. Ms. Mattson was released under Pretrial Supervision and was being monitored by a GPS ankle monitor.
3. The respondent met with Ms. Mattson on several occasions, with the permission of Pretrial Services. On one of those occasions, the respondent and Ms. Mattson made several stops that were not specifically authorized by the Pretrial Release supervising officer.

4. The respondent operated under the mistaken impression that the additional stops were authorized and permissible.

5. Pretrial Services filed a violation report alleging that Ms. Mattson had made unauthorized stops, as well as an allegation that she failed a drug test. Ms. Mattson was incarcerated as a result of the violation report.

6. The respondent represented Ms. Mattson at the Violation of Pretrial Release Hearing before the Honorable Sherwood Bauer. The allegation of the failed drug test was successfully refuted, however, the respondent failed to provide sufficient or clear responses to the Court regarding his belief that the unauthorized stops were permissible.

7. The respondent failed to convey to the Court his misunderstanding of the parameters and restrictions imposed on Ms. Mattson's travel outside the 19th Judicial Circuit.

8. The respondent should have made a better effort to provide information from his laptop which would have been responsive to the Court's concerns regarding the unauthorized stops.

III. RECOMMENDATIONS AS TO GUILT

I recommend that respondent be found guilty of violating the following Rules Regulating The Florida Bar; to which he has admitted:

Rules 3-4.3 (Misconduct and Minor Misconduct); 4-1.1 (Competence) and 4-8.4(a)(d) (Misconduct) (Prejudicial to the administration of justice) of the Rules Regulating The Florida Bar.

IV. STANDARDS FOR IMPOSING LAWYER SANCTIONS

I considered the following Standard from the Florida Standards for Imposing Lawyer Sanctions prior to recommending discipline:

4.5 Competence

(c) Public reprimand is appropriate when a lawyer causes injury or potential injury to a client, and

(1) demonstrates failure to understand relevant legal doctrines or procedures.

I find the aforementioned Standard to be applicable in the instant case based upon the admissions tendered in respondent's Conditional Guilty Plea for Consent Judgment.

In recommending discipline, I also considered the following aggravating and mitigating factors as reflected in sections 3.2 and 3.3, respectively, of the Standards:

V. 3.2 Aggravation

- A. (b)(1) Prior disciplinary offense.

The instant file was pending at the time that the prior disciplinary cases were litigated before me. As a result of the prior offense, I recommended that the respondent be suspended for ninety (90) days. The suspension was imposed and the respondent has resumed practicing law full time. I would have made the same recommendation had this matter been litigated simultaneously with the previous complaints. As such, I give this aggravating factor less weight than I normally would.

VI. 3.3 Mitigation

- A. (b)(2) Absence of a dishonest or selfish motive.
- B. (b)(5) Respondent has made full and free disclosure to the bar and has had a cooperative attitude towards the proceedings.
- C. (b)(12) Remorse. Respondent is remorseful. Specifically he recognizes he should have been clearer in his understanding

of the restrictions placed on his client by Pretrial Services and should have explained the lack of understanding to the Court.

D. Additional mitigation:

Respondent has provided substantial pro bono services in the last few years of his practice. Although the respondent does recognize that attorneys should perform pro bono work, he has attempted to go above and beyond in this endeavor. For the past several years respondent has worked tirelessly to assist incarcerated minors who were the victims of sex trafficking and child abuse.

Respondent became interested in these types of cases when he learned of the conviction of a teen who was sentenced to life without parole. Respondent performed investigative work, handled appellate work and trial work and was successful in having that minor's sentence reduced. Respondent handled several other similar cases over the years. Respondent was very proud to have been the recipient of a "silver" award from Palm Beach County Legal Aid for representing a parent who had a conflict with the school board. After respondent alleged that the actions of the school board were unconstitutional, the matter was resolved. Respondent also

represented several students who he believed were unjustly expelled from school with successful outcomes. Respondent has devoted thousands of pro bono hours for the betterment of minors.

VII. CASE LAW

I considered the following case law prior to recommending discipline:

The Florida Bar v. Douglas Evan Spiegel, No. SC2023-0686 (Fla. May 25, 2023) TFB File Nos. 2019-10,025(20A) and 2020-10,121(20A) - Public

Reprimand and DDCS. Spiegel's consent judgment included two files.

Spiegel did not appear at a criminal hearing and did not inform the client of the hearing. As a result, a bench warrant was issued for the client, and she

was arrested. In another matter the respondent represented the former wife in a mediation which concerned the former husband's failure to pay

child expenses. The husband provided receipts for expenses, but the

respondent failed to timely review them and failed to maintain contact with

his client, the opposing counsel and former husband once he became *pro*

se. Spiegel did not have any prior disciplinary history.

The Florida Bar v. Melissa Giasi, No. 2021-1637 (Fla. May 26, 2022)

TFB File No. 2020-10,425(6D) - Public Reprimand, Ethics School and

apology letters to two judges. In a matter before two different judges Giasi

provided an inaccurate answer to the inquiry of the court based on confusion as to the question. Also, in a written motion reflecting the court's ruling, the respondent's recital of the ruling was inartful and inexact.

VIII. RECOMMENDATION AS TO DISCIPLINARY MEASURES TO BE APPLIED

I recommend that respondent be found guilty of misconduct justifying disciplinary measures, and that he be disciplined by:

A. Public reprimand by publication.

B. Respondent shall attend The Florida Bar's Professionalism Workshop within 6 months of the date of the Supreme Court of Florida's order, or the next scheduled date, and pay the \$750.00 fee associated with this program prior to attendance.

C. Respondent shall attend the next scheduled Florida Bar Board Certification Review Course for Criminal Law to be held in June of 2024 in Orlando, Florida. (This course will be held in conjunction with The Florida Bar's Annual Convention). Respondent is responsible for paying all fees and expenses incurred with the course. Respondent shall submit an affidavit attesting to the completion of the course.

D. Payment of the disciplinary costs in this matter.

IX. 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: 46

Date admitted to the Bar: July 8, 2008

Prior Discipline: *The Florida Bar v. Marc S. Reiner*; TFB File Nos. 2017-50,490(15G); 2018-50,894(15G); 2019-50,020(15G); SC21-241 – 90-day suspension. Respondent failed to comply with his Continuing Legal Education Requirements and became delinquent. Respondent continued to engage in the practice of law and made a false statement on his Petition for Removal of Continuing Legal Education Requirement Delinquency. Respondent also failed to timely respond to the bar's investigative inquiries in that matter, as well as regarding two filed grievances. After a full hearing on these matters I recommended a ninety (90) day suspension. As noted above, this matter was pending at the time the above complaints were litigated.

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

I find the following costs were reasonably incurred by The Florida

Bar:

Investigative Costs	\$322.72
Administrative Fee	\$1,250.00
Court Reporter Costs	\$735.00
TOTAL	\$2,307.72

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 August, 2023.

/s/ Deborah Carpenter-Toye
Deborah Carpenter-Toye, Referee
Broward County Courthouse
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Fort Lauderdale, FL 33301-3303

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