

SUPREME COURT OF FLORIDA

The Florida Bar v. John Newman Bryant

813 So. 2d 38 (Fla. 2002) · No. SC94965, SC00-801 · Decided February 21, 2002

SUMMARY

The Supreme Court of Florida reviews disciplinary proceedings against attorney John Newman Bryant arising from inadequate diligence and failure to respond to the Bar in one representation, and sexual conduct involving another client. The court upholds findings that Bryant violated Rules Regulating the Florida Bar 4-1.3, 4-8.4(b), 4-8.4(d), and 4-8.4(g), reverses the referee's finding regarding Rule 4-8.4(i), and imposes a one-year suspension, a professionalism program, two years of probation, and costs.

CASE DETAILS

COURT	Supreme Court of Florida
WRITING FOR THE COURT	Per Curiam; Wells, C.J.; Shaw, J.; Harding, J.; Anstead, J.; Lewis, J.; Quince, J.; Pariente, J.
JURISDICTION	Florida
DECIDED	February 21, 2002
DOCKET	SC94965, SC00-801
DISPOSITION	other
PROCEDURAL POSTURE	The Florida Bar sought review of a referee's report concerning alleged ethical violations in two disciplinary matters involving Bryant. The matters were consolidated before the referee, and the Supreme Court of Florida reviewed the referee's factual findings, guilt determinations, and recommended discipline.
STANDARD OF REVIEW	Referee factual findings are upheld if supported by competent, substantial evidence; the Supreme Court's review of recommended discipline is broader because the Court has ultimate authority to determine the appropriate sanction.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of Florida
PARTIES	The Florida Bar v. John Newman Bryant

TOPICS

appellate procedure

standard of review

family law procedure

family law

PRACTICE AREAS

legal ethics

attorney discipline

professional responsibility

family law

QUESTIONS PRESENTED

1. Whether competent, substantial evidence supported the referee's findings that Bryant was not guilty of violating Rules Regulating the Florida Bar 4-1.4(a) and 4-1.4(b) in the Albano matter.
2. Whether Bryant's exchange of sexual conduct for legal services exploited the lawyer-client relationship and violated Rule Regulating the Florida Bar 4-8.4(i).
3. Whether the referee's recommended discipline was sufficient in light of Bryant's violations and disciplinary history.
4. What amount of costs should be assessed against Bryant.

HOLDINGS

1. The Court upheld the referee's findings that Bryant was not guilty of violating Rules 4-1.4(a) and 4-1.4(b) because competent, substantial evidence supported those findings.
2. Bryant violated Rule 4-8.4(i) because he obtained sexual activity from Rodehaver through exploitation of the lawyer-client relationship.
3. A one-year suspension, completion of a Professionalism Enhancement Program before reinstatement, two years of probation thereafter, and payment of \$3,633.17 in costs were appropriate sanctions.

KEY QUOTATIONS

“a party does not satisfy [its] burden of showing that a referee's findings are clearly erroneous by simply pointing to the contradictory evidence where there is also competent, substantial evidence in the record that supports the referee's findings.” (at 40)

“We conclude that the referee erred by focusing on Rodehaver being a prostitute and framing the issue as whether, in view of her prostitution, Rodehaver could be exploited by sex; whereas, the correct focus pursuant to the plain language of the rule is whether a lawyer obtained the sexual activity through an exploitation of the lawyer-client relationship.” (at 43)

“This Court will strictly enforce the rule against lawyers engaging in sexual conduct with a client that exploits the lawyer-client relationship.” (at 44)

FACTUAL BACKGROUND

Bryant represented Frank Albano in a child-support contempt matter but failed to maintain adequate contact after Albano moved, although documentary evidence supported the referee's finding that Bryant notified Albano of the hearing and explained its result. Bryant also represented Pamela Rodehaver in criminal and municipal matters and accepted sexual conduct in exchange for legal services in the municipal case. Bryant later

acknowledged the sexual conduct and told an investigator that he had said, "The happier you keep me, the harder I will work."

PROCEDURAL HISTORY

The referee found Bryant guilty of violating Rules Regulating the Florida Bar 4-1.3 and 4-8.4(g) in the Albano matter and 4-8.4(b) and 4-8.4(d), but not 4-8.4(i), in the Rodehaver matter. The referee recommended a public reprimand, six months' probation, completion of a professionalism program, and costs. The Bar challenged the findings of not guilty on certain charges and argued that the recommended discipline was insufficient; Bryant challenged only the assessment of costs.

DISPOSITION

other

CASES CITED

- Florida Bar v. Vining, 761 So. 2d 1044, 1047-48 (Fla. 2000)
- Florida Bar v. Scott, 810 So. 2d 893 (Fla. 2002)
- People v. Crossman, 850 P.2d 708 (Colo. 1993)
- In re Redd, 660 So. 2d 839 (La. 1995)