

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,
Complainant,

Supreme Court Case
No. SC21-243

v.

KENNETH EDWARD WALTON II,
Respondent.

The Florida Bar File Nos.
2019-70,668 (11P)
2020-70,037 (11P)
2020-70,203 (11P)
2020-70,204 (11P)

UNCONDITIONAL GUILTY PLEA FOR CONSENT JUDGMENT

COMES NOW Kenneth Edward Walton II and files this Unconditional 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 currently the subject of a disciplinary proceeding which has been assigned Supreme Court Case No. SC21-243; The Florida Bar File Nos. 2019-70,668 (11P); 2020-70,037 (11P); 2020-70,203 (11P); 2020-70,204 (11P); and which is presently pending before the Honorable Jeffrey Kolokoff, Referee.

3. Additionally, respondent is currently the subject of a Florida Bar grievance, for which the grievance committee has found probable cause.

That matter has been assigned The Florida Bar File No. 2021-70,224(11P). Respondent hereby agrees and consents to said matter's inclusion in the instant Consent Judgment and any resulting Report of Referee.

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

COUNT I: THE FLORIDA BAR FILE NO. 2019-70,668

5. On or about April 2018, Salena Burgess retained respondent to represent her in two matters. Respondent was diligent at first but then neglected her matters and failed to communicate with her.

6. Respondent acknowledged in correspondence to the bar that he should have declined representation in this matter because of ongoing issues related to his physical and mental health.

7. By reason of the foregoing, respondent has violated the following Rules Regulating The Florida Bar: 4-1.3 (Diligence); (4-1.4 Communication); and 4-1.16(a) (When Lawyer Must Decline or Terminate Representation).

COUNT II: THE FLORIDA BAR FILE NO. 2020-70,203

8. On or about August 2018, respondent was retained by Dmitri Mikhailov to remove a lien on realty that was causing a \$500.00 daily fine to the property owner/client by the City of Sunny Isles Beach.

9. Although respondent reached a reasonable agreement with the City of Sunny Isles Beach for removal of the lien and resolution of the case, he did not communicate diligently with his client.

10. Respondent acknowledged in correspondence to the bar that he should have declined representation in this matter because of ongoing issues related to his mental health.

11. By reason of the foregoing, respondent has violated the following Rules Regulating The Florida Bar: 4-1.3 (Diligence); (4-1.4 Communication); and 4-1.16(a) (When Lawyer Must Decline or Terminate Representation).

COUNT III: THE FLORIDA BAR FILE NO. 2020-70,037

12. On or about October 2018, respondent was retained by a buyer and seller to prepare documents for the closing of a real estate transaction. Sandor Urban, a realtor, represented the sellers.

13. Respondent made an error on the closing statement, resulting in an overpayment to the sellers of \$6,586.00, which was the amount due to Mr. Urban for his commission.

14. While respondent evaded Mr. Urban's attempts to communicate with him regarding assistance in the recovery of his commission, respondent drafted and mailed a demand letter to the seller

requesting a return of the overpayment. Subsequent to filing his grievance, Mr. Urban was able to recover his commission.

15. Additionally, respondent did not comply with technical trust account record keeping rules for the period of January 1, 2018 through February 29, 2020.

16. By reason of the foregoing, respondent has violated the following Rules Regulating The Florida Bar: 4-4.4(a) (In representing a client, a lawyer shall not use means that have no substantial purpose other than to embarrass, delay, or burden a third or knowingly use methods of obtaining evidence that violate the legal rights of such a person); and 5-1.2 (Failure to maintain technical trust accounting records).

COUNT IV: THE FLORIDA BAR FILE NO. 2020-70,204

17. On or about June 2019, respondent was retained by Roy Collins to represent him in a foreclosure defense and possible bankruptcy assistance.

18. Mr. Collins paid a \$5,000.00 retainer fee, but respondent ceased to communicate with the client and only performed minimal legal work on his behalf.

19. Respondent acknowledged in correspondence to the bar that he should have declined representation in this matter because of ongoing issues related to his mental health.

20. By reason of the foregoing, respondent has violated the following Rules Regulating The Florida Bar: 4-1.4 (Communication); 4-1.5 (Fees and Costs for Legal Services); and 4-1.16(a) (When Lawyer Must Decline or Terminate Representation).

THE FLORIDA BAR FILE NO. 2021-70,224

21. Respondent was retained in March 2019 to file a lawsuit on behalf of Phillipe Louis. Respondent failed to communicate with Mr. Louis for roughly seven months and did not file the lawsuit.

22. When Mr. Louis said he would seek out a new attorney, respondent promised to get to work on the matter, but ultimately never did.

23. After Mr. Louis filed a bar grievance, respondent reached out to him and asked him to withdraw the grievance, promising to continue working on his case, but failed to do so.

24. By reason of the foregoing, the respondent has violated the following Rules Regulating The Florida Bar: Rules 4-1.3 (Diligence), 4-1.4 (Communication), and 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).

25. The disciplinary measures to be imposed upon respondent are as follows:

A. 91-day suspension

B. Respondent will contact Florida Lawyers Assistance, Inc. (FLA, Inc.), at 800-282-8981 for an evaluation within thirty (30) days of the order of the Supreme court of Florida. At the end of the thirty (30) day period, respondent will provide the Bar's headquarters office with proof that respondent has scheduled an evaluation. Respondent will abide by all recommendations made by FLA, Inc. including, but not limited to, entering into a rehabilitation contract within 30 days of the recommendation. Once respondent enters into a rehabilitation contract with FLA, Inc. then the contract will be monitored by FLA, Inc. until such time as respondent has been reinstated or completed the contract.

C. Respondent shall pay restitution to the following former clients in the specified amounts within six months of the entry of the order of the Supreme Court of Florida:

- a. Restitution to Roy Collins in the amount of \$5,000.00; and
- b. Restitution to Philippe Louis in the amount of \$2,000.00.

26. In mitigation, respondent offers the following:

- Restitution as provided herein;
- 3.3(b)(1) absence of a prior disciplinary record;

Respondent was admitted to The Florida Bar in 1999. These grievances are limited to the time period between 2018 and 2019 and explained by the reasons set forth below;

- 3.3(b)(2) absence of selfish or dishonest motive;
- 3.3(b)(3) personal or emotional problems. Respondent

has expressed great remorse over the quality of representation he provided to his clients. He admitted to the wrongdoing and in mitigation offers evidence of debilitating mental health conditions he was not able to get under control over the course of his representation. Respondent provided documentation that he has mental health conditions categorized into DSM-V. He has been open about that fact and appears to want help. Respondent stopped taking

medication for his mental health conditions during the relevant time period. When the problems became apparent, he went to his doctor who changed his medication. His symptoms worsened. He is currently under a doctor's care and taking steps toward improving his mental health. Respondent has been struggling under the weight of his mental health conditions for several years, and they only became unmanageable during 2018 and 2019;

- 3.3(b)(4) timely good faith effort to make restitution.

Respondent reimbursed the \$6,000.00 paid to him Salena Burgess by for the representation.

- 3.3(b)(5) full and free disclosure to the bar or cooperative attitude toward the proceedings.

- 3.3(b)(7) character or reputation. Respondent was appointed to The Florida Bar's Civil Rules of Procedure Committee and served for two terms, was president of the Black Lawyer's Association in Miami-Dade County, served two terms on The Florida Bar's Board of Governors Young Lawyer's Division, served on the Board of Directors of Legal Services of Greater Miami, was a Big Brother, and has been elected to a number of positions in the Miami-

Dade County Bar Association, including the posts of treasurer, secretary, and vice president.

- 3.3(b)(12) remorse. Respondent has consistently expressed remorse over the treatment of his clients and parties in question from the outset of these grievances.

27: The Supreme Court has approved consent judgments in matters similar to the instant matter:

a. In *The Florida Bar v. Leroy Lee*, SC20-1197, 2021 WL 834811 (2021), the Supreme Court approved a consent judgment suspending respondent for a period of six months and payment of restitution to several of his clients. He pleaded guilty to 4-1.3 (Diligence); 4-1.4 (Communication); 4-1.5 (Fees and Costs for Legal Services); 3-4.3 (Misconduct and Minor Misconduct); and 4-3.2 (Expediting Litigation). Respondent had a disciplinary history and offered virtually no mitigation for neglecting client matters, not communicating with his clients, and failing to work on several of the cases referenced in the complaint.

b. In *The Florida Bar v. Alexis Day-Benjamin*, a consent judgment for six months suspension and restitution was approved where the lawyer neglected and failed to communicate with three different clients

about their legal matters. While some mitigation was offered, it did not include a documented mental health component.

28. 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.

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

30. 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.

31. 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 him self out as a licensed attorney.

32. 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 \$1,700.00. 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.


33. 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.

34. 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.


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

Dated this ____ day of _____, 2021.



Kenneth Edward Walton II
Respondent
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kenneth@waltonlawfirm.com

Dated this ____ day of _____, 2021.




Sean Michael Ellsworth, Esq.
Attorney for Respondent

10/15/2021

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Dated this 15th day of October, 2021.



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