

IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR,

Petitioner,

v.

ALBERT W. PUCYLOWSKI,

Respondent.

Supreme Court Case
No. SC-

TFB File Nos. 2019-30,401(09D)(CES);
2019-30,444(09D); 2019-30,476(09D);
2019-30,517(09D)

PETITION FOR EMERGENCY SUSPENSION

This petition of The Florida Bar seeks emergency relief and requires the immediate attention of the court pursuant to R. Regulating Fla. Bar 3-5.2. The Florida Bar seeks the emergency suspension of Albert W. Pucylowski, Attorney No. 143502, from the practice of law in Florida based on facts that establish clearly and convincingly that Albert W. Pucylowski appears to be causing great public harm as will be shown by facts supported by the affidavit of Staff Investigator, Shirley Coleman, attached hereto as Exhibit "A," as follows:

1. The filing of this Petition for Emergency Suspension has been authorized by the Executive Director of The Florida Bar.
2. Respondent, Albert W. Pucylowski, is and at all times hereinafter mentioned, was a member of The Florida Bar and subject to the jurisdiction and disciplinary rules of the Supreme Court of Florida.

3. Respondent is currently the subject of several bar disciplinary matters which have been assigned The Florida Bar file numbers 2019-30,401(09D)(CES), 2019-30,444(09D), 2019-30,476(09D), and 2019-30,517(09D).

4. The bar's investigation of this matter has indicated that respondent has abandoned his law practice, as well as his client files, and has failed to respond to the bar's investigative inquiries.

5. Respondent's practice mainly focuses on traffic tickets and criminal matters. Respondent does not have a trust account that is registered with The Florida Bar Foundation.

6. Between November 2018 and present, The Florida Bar has received several phone calls and three sworn written complaints from clients alleging that respondent failed to maintain adequate client communication, neglected cases, failed to earn his fees, and failed to return original documentation provided by clients.

7. In three separate matters, respondent's failure to appear in court caused arrest warrants to be issued for his clients.

8. On or about December 4, 2018, an employee with the Ninth Judicial Circuit State Attorney's Office notified The Florida Bar that no one had spoken with respondent in weeks and that all his cases were being ignored.

9. On or about December 7, 2018, The Florida Bar's Staff Investigator,

Shirley Coleman, traveled to respondent's law office at 501 North Magnolia Avenue, Orlando. Ms. Coleman noted a sign on the door advising that the office was closed. An employee at the office next door informed Ms. Coleman that respondent had closed his office a month ago; however, clients show up almost every day attempting to contact respondent.

10. On or about December 7, 2018, Ms. Coleman also traveled to respondent's last known home address, 4109 Fairview Vista Point #118, Orlando. At that location, Ms. Coleman spoke with the new tenant, who stated respondent abandoned his apartment and everything in it over a month ago.

11. On or about December 11, 2018, respondent's former legal assistant, Mia Vazquez, advised The Florida Bar of respondent's abandonment of his law practice and his refusal to pick up his client files from her.

12. Ms. Vazquez is in possession of 30 to 40 client files belonging to respondent, including active cases. Additional client files are locked up in respondent's office, and Ms. Vazquez was refused admittance because she is not on the leasing paperwork.

13. Ms. Vazquez stated that she has not heard from respondent since the end of November 2018. Ms. Vazquez terminated her employment with respondent on December 7, 2018.

14. Respondent has failed to respond to any of The Florida Bar's written

correspondence regarding allegations of misconduct.

15. In TFB File No. 2019-30,444(09D), The Florida Bar notified respondent of his requirement to respond to the complaint of Rachel Collins by January 7, 2019. Respondent failed to respond.

16. In TFB File No. 2019-30,476(09D), The Florida Bar notified respondent of his requirement to respond to the complaint of Violet Scurry by January 24, 2019. Respondent failed to respond.

17. On or about January 17, 2019, The Florida Bar received a third sworn complaint filed by Gina Cannizzaro, TFB File No. 2019-30,517(09D).

18. Respondent has failed to respond to any of the Staff Investigator's phone calls, text messages, or emails.

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

A. 3-4.3 Misconduct and Minor Misconduct. The standards of professional conduct required of members of the bar are not limited to the observance of rules and avoidance of prohibited acts, and the enumeration of certain categories of misconduct as constituting grounds for discipline are not all-inclusive nor is the failure to specify any particular act of misconduct be construed as tolerance of the act of misconduct. The commission by a lawyer of any act that is unlawful or contrary to honesty and justice may

constitute a cause for discipline whether the act is committed in the course of the lawyer's relations as a lawyer or otherwise, whether committed within Florida or outside the state of Florida, and whether the act is a felony or a misdemeanor.

B. 4-1.1 Competence. A lawyer must provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation.

C. 4-1.3 Diligence. A lawyer shall act with reasonable diligence and promptness in representing a client.

D. 4-1.4(a) Informing Client of Status of Representation. A lawyer shall: (1) promptly inform the client of any decision or circumstance with respect to which the client's informed consent, as defined in terminology, is required by these rules; (2) reasonably consult with the client about the means by which the client's objectives are to be accomplished; (3) keep the client reasonably informed about the status of the matter; (4) promptly comply with reasonable requests for information; and (5) consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows or reasonably should know that the client expects assistance not permitted by the Rules of Professional Conduct or other law.

E. 4-1.16(d) Declining or Terminating Representation. Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interest, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled, and refunding any advance payment of fee or expense that has not been earned or incurred. The lawyer may retain papers and other property relating to or belonging to the client to the extent permitted by law.

F. 4-8.4(d) Misconduct. A lawyer shall not engage in conduct in connection with the practice of law that is prejudicial to the administration of justice.

G. 4-8.4(g) Misconduct. A lawyer shall not fail to respond, in writing, to any official inquiry by bar counsel or a disciplinary agency, as defined elsewhere in these rules, when bar counsel or the agency is conducting an investigation into the lawyer's conduct. A written response shall be made: (1) within 15 days of the date of the initial written investigative inquiry by bar counsel, grievance committee, or board of governors; (2) within 10 days of the date of any follow-up written investigative inquiries by bar counsel, grievance committee, or board of governors.

WHEREFORE, based on the aforementioned facts, the bar asserts the respondent has caused, or is likely to cause, immediate and serious harm to clients and/or the public and that immediate action must be taken for the protection of the respondent's clients and the public. Therefore, pursuant to R. Regulating Fla. Bar 3-5.2, The Florida Bar respectfully requests this Court to:

A. Suspend respondent from the practice of law until further order of this Court.

B. Order respondent to accept no new clients from the date of this Court's order and to cease representing any clients after 30 days from the date of this Court's order. Within the 30 days from the date of this Court's order, respondent shall wind down all pending matters and shall not initiate any litigation on behalf of clients. Respondent shall withdraw from all representation within 30 days from the date of this Court's order. In addition, respondent shall cease acting as personal representative for any estate, as guardian for any ward, and as trustee for any trust and will withdraw from said representation within thirty days from the date of this Court's order and will immediately turn over to any successor the complete financial records of any estate, guardianship or trust upon the successor's appointment.

C. Order respondent to furnish a copy of the suspension order to all clients, opposing counsel and courts before which Albert W. Pucylowski is counsel

of record as required by Rule 3-5.1(h) of the Rules of Discipline of The Florida Bar and to furnish Staff Counsel with the requisite affidavit listing all clients, opposing counsel and courts so informed within 30 days after receipt of the Court's order.

D. Order respondent to refrain from withdrawing or disbursing any money from any trust account related to respondent's law practice until further order of this Court, a judicial referee appointed by this court or by order of the Circuit Court in an inventory attorney proceeding instituted under R. Regulating Fla. Bar 1-3.8, and to deposit any fees, or other sums received in connection with the practice of law or in connection with the respondent's employment as a personal representative, guardian or trustee, paid to the respondent after issuance of this Court's order of emergency suspension, into a specified trust account from which withdrawal may only be made in accordance with restrictions imposed by this Court. Further, respondent shall be required to notify bar counsel of The Florida Bar of the receipt and location of said funds within 30 days of the order of emergency suspension.

E. Order respondent to not withdraw any money from any trust account or other financial institution account related to respondent's law practice or transfer any ownership of any real or personal property purchased in whole or in part with funds properly belonging to clients, probate estates for which respondent served as

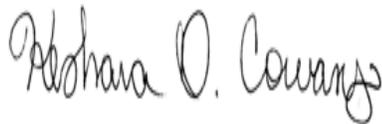
personal representative, guardianship estates for which respondent served as guardian, and trusts for which respondent served as trustee without approval of this court, a judicial referee appointed by this court or by order of the Circuit Court in an inventory attorney proceeding instituted under R. Regulating Fla. Bar 1-3.8.

F. Order respondent to notify, in writing, all banks and financial institutions where the respondent maintains an account related to the practice of law, or related to services rendered as a personal representative of an estate, or related to services rendered as a guardian, or related to services rendered as a trustee, or where respondent maintains an account that contains funds that originated from a probate estate for which respondent was personal representative, guardianship estate for which respondent was guardian, or trust for which respondent was trustee, of the provisions of this Court's order and to provide all the aforementioned banks and financial institutions with a copy of this Court's order. Further, respondent shall be required to provide Bar Counsel with an affidavit listing each bank or financial institution respondent provided with a copy of said order.

G. Order respondent to immediately comply with and provide all documents and testimony responsive to a subpoena from The Florida Bar for trust account records and any related documents necessary for completion of a trust account audit to be conducted by The Florida Bar.

H. And further to authorize any Referee appointed in these proceedings to determine entitlement to funds in any trust account(s) frozen as a result of an Order entered in this matter.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I certify that this Petition for Emergency Suspension has been E-filed with The Honorable John A. Tomasino, Clerk of the Supreme Court of Florida; a copy has been furnished by United States Mail via certified mail No. 7017 0190 0000 0892 4873, return receipt requested to Albert W. Pucylowski Respondent, whose record bar address is 501 N. Magnolia Avenue, Suite E, Orlando, Florida 32801-1364, and to Respondent via email at tiana@aplaworlando.com; and a copy to Keshara Davis Cowans, Bar Counsel, 1000 Legion Place, Suite 1625, Orlando, Florida 32801-1050, via email at kcowans@floridabar.org on this 6th day of February, 2019.

Adria E. Quintela
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NOTICE OF DESIGNATION OF PRIMARY EMAIL ADDRESS

PLEASE TAKE NOTICE that bar counsel in this matter is Keshara Davis Cowans, 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) 425-5424, kcowans@floridabar.org. Respondent need not address pleadings, correspondence, etc. in this matter to anyone other than bar counsel and to Adria E. Quintela, Staff Counsel, The Florida Bar, Lakeshore Plaza II, Suite 130, 1300 Concord Terrace, Sunrise, Florida 33323, aquintel@floridabar.org.

MANDATORY ANSWER NOTICE

RULE 3-5.2(a), RULES OF DISCIPLINE, EFFECTIVE JULY 1, 2012, 2004, PROVIDES THAT A RESPONDENT SHALL ANSWER A COMPLAINT.

STATE OF FLORIDA
COUNTY OF ORANGE

AFFIDAVIT

I, Shirley Coleman, after being duly sworn, say:

1. I am a Staff Investigator with The Florida Bar. My work address is The Florida Bar, 1000 Legion Place, Suite 1625, Orlando, Florida 32801-1050.

2. As Staff Investigator, I investigated allegations that attorney, Albert W. Pucylowski (“respondent”), had abandoned his law practice. Respondent’s practice mainly focuses on traffic tickets and criminal matters.

3. Between November 2018 and present, The Florida Bar has received several phone calls and three sworn written complaints from clients alleging that respondent failed to maintain adequate client communication, neglected cases, failed to earn his fees, failed to return original documentation provided by clients, and, failed to appear in court.

4. On December 4, 2018, an employee with the Ninth Judicial Circuit State Attorney’s Office emailed The Florida Bar with concerns that no one had spoken with respondent in weeks and that his cases were being ignored.

5. On December 7, 2018, I traveled to respondent’s law office location at 501 North Magnolia Avenue, Orlando. There was a sign on the door advising that the office was closed. I buzzed the law office located next door. The receptionist said respondent closed his office a month ago and abandoned it. She said clients

show up almost every day trying to contact respondent.

6. On December 7, 2018, I also conducted a TLO search and attempted to locate the respondent at his last known home address, 4109 Fairview Vista Point #118, Orlando. At that location, I spoke with the new tenant, who stated respondent abandoned his apartment and everything in it over a month ago. The new tenant said that he put respondent's belongings into a storage unit. He also said respondent left owing money to the landlord.

7. On December 11, 2018, respondent's former legal assistant, Mia Vazquez, left a message with The Florida Bar in regard to respondent's abandonment of his law practice.

8. On December 13, 2018, I interviewed Ms. Vazquez by phone. She has not heard from respondent since the end of November 2018. She last spoke with him in person at the office on October 12, 2018. Ms. Vazquez stated that respondent told her that he was leaving for a week on a family emergency.

9. Thereafter, respondent texted a week later and told Ms. Vazquez he was gone another week and to ask for continuances in his cases. Respondent texted Ms. Vazquez again and said he would be gone for a third week. He also texted during this time and told her that other attorneys would be taking over some of his cases.

10. Ms. Vazquez terminated her employment with respondent on

December 7, 2018.

11. During the months of December 2018, January 2019, and February 2019, I interviewed the complainants who alleged that respondent had abandoned their legal matters.

12. In three matters, where the clients did not file formal complaints, respondent's failure to appear in court caused arrest warrants to be issued for his clients. I verified this information by reviewing the relevant court files. The matters are State v. Johnson, Case No. 2018-309946-TRDL (Volusia County); State v. Hall, Case No. 2018-CT-002451 (Lake County); and, State v. McFerran, Case No. 2017-CT-7810 (Orange County).

13. On or about December 17, 2018, The Florida Bar received a sworn written complaint from Rachel Collins alleging that respondent abandoned her husband's criminal case [TFB File No. 2019-30,444(9D)].

14. On January 11, 2019, I interviewed Ms. Collins by phone. Ms. Collins said her husband was arrested in Georgia on a VOP warrant out of Florida (they moved to Georgia and her husband did not get permission to move). Florida would not extradite, so her husband was released from jail.

15. In or around June 2018, Ms. Collins called the respondent, who had previously represented her husband, and respondent agreed to take the VOP case for \$1,500.00.

16. Thereafter, respondent failed to contact Ms. Collins or her husband, and Ms. Collins sent respondent an email. Respondent replied that it was taking a little longer to resolve.

17. In November 2018, police officers showed up at the Collins' house in Georgia and arrested Mr. Collins on the VOP warrant. Ms. Collins said she called, texted, and emailed respondent but has not gotten any response from him. Respondent failed to appear for court, and the judge assigned a public defender to the case. Ms. Collins said she does not have money to hire another attorney.

18. On or about January 3, 2019, The Florida Bar received a sworn written complaint from Violet Scurry alleging that respondent abandoned her son's criminal case [TFB File No. 2019-30,476(9D)].

19. On January 11, 2019, I interviewed Ms. Scurry by phone. In or around September 2017, Ms. Scurry hired respondent to represent her son in a felony case. She stated that she paid respondent a total of approximately \$12,000.00.

20. On October 1, 2018, Ms. Scurry made a payment of \$500.00 by calling respondent's office. She stated that she did not get a receipt by email as usual. In November 2018, when Ms. Scurry called to make her payment, respondent's voicemail was full. Ms. Scurry stated that she kept calling and sending emails.

21. The respondent's assistant, Ms. Vazquez, eventually contacted Ms.

Scurry and said that attorney Russell Query was taking over the case. Ms. Scurry said she was told by her son that Mr. Query appeared in court on December 4, 2018. Ms. Scurry said the judge continued the case until December 7, 2018. When neither respondent nor Mr. Query appeared on December 7, 2018, the case was continued until December 12, 2018. Again, respondent and Mr. Query did not appear, and the court ultimately appointed a public defender to the case.

22. Ms. Scurry said she was never notified that respondent was closing his office. She said that she is on disability and does not have the money to hire another attorney.

23. On or about January 17, 2019, The Florida Bar received a sworn written complaint from Gina Cannizzaro alleging that respondent abandoned her traffic ticket matter [TFB File No. 2019-30,517(9D)].

24. On February 1, 2019, I interviewed Ms. Cannizzaro by phone. In or around October 2018, Ms. Cannizzaro called respondent's office and spoke with respondent's assistant, Ms. Vazquez. Ms. Cannizzaro told Mia that she wanted to plead not guilty to a traffic ticket.

25. Ms. Cannizzaro paid \$80.00 with a credit card online. She stated that she received an email receipt with a retainer attached, which she signed and sent back. After two months, Ms. Cannizzaro had not heard from respondent. Ms. Cannizzaro stated that she checked online and saw that she had a court date in four

days. She attempted to call respondent's office and learned the phone number had been disconnected. Her husband went by respondent's office and saw that it was closed.

26. Ms. Cannizzaro said she had to go to the clerk's office and change her plea. She had to pay the \$129.00 ticket, \$15.00 in court costs, and sign up for the traffic class.

27. Ms. Cannizzaro stated that she was not informed that respondent had closed or moved his office.

28. Respondent has been totally nonresponsive to my calls, text messages, and emails.

FURTHER AFFIANT SAYETH NOT.

Shirley Coleman
SHIRLEY COLEMAN

SWORN TO AND SUBSCRIBED before me this 4th day of February, 2019.

Elizabeth Tebo
Notary Public



Elizabeth Tebo
Print, type, or stamp commission name of notary public

Personally known to me
 Produced the following identification
Type of Identification produced: _____