

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

JERMAINE KENT,

Plaintiff,

v.

Case No. 6:15-cv-880-Orl-37TBS

ZACHARY BROWN,

Defendant.

ORDER

As detailed in the Court's April 5 Order (Doc. 68), attorney Paul E. Bross has a penchant for untimeliness. The Undersigned has addressed this grievance with Mr. Bross on a number of occasions—including a November 9, 2016 show cause hearing ("**November 9 Hearing**") (*see* Doc. 40). Still, the behavior remained unremedied. Ultimately, Mr. Bross's failure to timely respond to pending motions for summary judgment in March and April of 2017 was the straw that broke the camel's back.

On April 5, 2017, the Court entered an order: (1) detailing the breadth of Mr. Bross's dilatory conduct in two specific cases; (2) exemplifying his continued contumacy within this District following the November 9 Hearing; and (3) referring these matters to the District's grievance committee ("**Committee**") for a report and recommendation. (Doc 68 ("**Referral Order**").) In doing so, the Referral Order asked the Committee: (1) whether Mr. Bross's conduct should be reported to the Florida Bar; (2) whether Mr. Bross should be removed from the Bar of the Middle District of Florida;

and (3) whether any additional sanctions—including monetary fines—should be imposed. (*Id.* at 7.) The Committee responded to each of these inquiries in a Report and Recommendation dated July 5, 2017. (Doc. 82 (“**R&R**”).)

The Committee’s findings are as follows. In addition to the failures detailed in the Referral Order, the Committee’s investigation revealed that Mr. Bross has habitually: (1) failed to appear at depositions; (2) cancelled depositions at the last minute; (3) appeared late to mediation; (4) failed to satisfy monetary sanctions obligations; and (4) failed to respond to correspondence from opposing counsel—including correspondence required by Local Rule 3.01(g)—costing opposing counsel a great deal of time and money. (*Id.* at 3.) Notably, the R&R details the hoops the Committee jumped through to obtain a response from Mr. Bross concerning the Referral Order. (*Id.* at 4.) In the end, Mr. Bross submitted his response a full month beyond the original deadline, and the Committee found it to be “flippant in tone, arrogant, and not particularly conciliatory.” (*Id.*) Based on his letter, the Committee concluded that Mr. Bross: (1) “does not meaningfully take responsibility for his own actions”; and (2) is not cognizant of the burden his actions have placed on his clients and opposing counsel. (*Id.*)

Even more concerning was the Committee’s revelation of sanctions levied against Mr. Bross earlier this year by the Florida Bar (“**2017 Bar Case**”). (*See id.* at 4-5.) As set forth in the R&R, the Florida Bar complaint and subsequent order discussed Mr. Bross’s conduct in four state court cases, which included “numerous failures to appear in court—one of which resulted in his client’s sentencing without the benefit of counsel present.” (*Id.* at 5.) Thereafter, Mr. Bross entered into a consent judgment with the Florida Bar,

whereby he was: (1) suspended from the Florida Bar for ten days with automatic reinstatement; (2) required to undergo a practice analysis by the disciplinary arm of the Florida Bar; and (3) required to pay costs totaling \$5,100. (*Id.*)

On the whole, the Committee found that:

- (1) Mr. Bross has taken on too much work;
- (2) Mr. Bross has “demonstrated widespread, consistent failures to timely file, timely respond to the Court, appear in Court and elsewhere when required, timely respond to opposing counsel . . . and properly manage, organize, and calendar his cases”;
- (3) his conduct has been prejudicial to the administration of justice;
- (4) his conduct has substantially fallen below that required of him as a member of the Bar of the Middle District of Florida for a material period of time;
- (5) his conduct violates the Florida Rules of Professional Conduct requiring diligence (Rule 4-1.3), prohibiting dilatory conduct (Rule 4-3.2), and requiring fairness to the opposing party and opposing counsel (Rule 4-3.4); and
- (6) his conduct violates the Local Rules requiring cooperation with the Committee (Rule 2.04(f)), cooperation among attorneys to prevent delay (Rule 20.4 (h)), and prompt meeting and conferral (Rule 3.01(g)).

(*Id.* at 5.) The Committee also recommends that the Court impose a number of sanctions.

(*Id.* at 6-7.)

Upon consideration of the findings and recommendations detailed in the R&R, as well as the Undersigned's own experiences with Mr. Bross, the Court agrees with Committee and finds that the R&R is due to be adopted save for one exception. Specifically, the Court declines to grant opposing counsel leave to move for attorney fees as consequence of this Order. (*See* Doc. 82, p. 6.) The Court will also require Mr. Bross to serve a copy of this Order on opposing counsel in every action that he has pending in this District.

Hence it is **ORDERED AND ADJUDGED** as follows:

1. The Report and Recommendation of the Grievance Committee (Doc. 82) is **ADOPTED IN PART**.

a. The Court declines to impose additional monetary sanctions *sua sponte* or allow opposing counsel the opportunity to move for the imposition of fees as a consequence of this Order.

b. In all other respects, the R&R is adopted.

2. Beginning Wednesday, **August 23, 2017**, and continuing through Friday, **February 23, 2018**, attorney Paul E. Bross is **SUSPENDED** from membership in the Bar of the U.S. District Court for the Middle District of Florida.

a. Mr. Bross is **DIRECTED** to immediately serve a copy of this Order on opposing counsel of every pending action in which he has appeared in this District. **Prior to August 23, 2017**, Mr. Bross must certify in writing that he has complied with this directive

by filing such certification on the docket in this action.

- b. **Prior to August 23, 2017**, Mr. Bross must act to protect the interests of his existing federal clients and to assist in obtaining substitute counsel.
- c. **Effective immediately**, Mr. Bross is **PROHIBITED** from appearing as counsel in any new case filing within this District until he gains reinstatement to the District Bar.

3. Prior to reinstatement, Mr. Bross must:

- a. Pay all outstanding monetary sanctions, fees, and costs imposed on him in any federal, state, or disciplinary action;
- b. Complete all remediation ordered by the Florida Bar in connection with the 2017 Bar Case – Case No. SC17-88;
- c. Attend in person and complete all aspects of: (i) a Law Practice Management CLE course; and (ii) the Practicing with Professionalism CLE course; and
- d. Re-read the Florida Rules of Professional Conduct and the Local Rules and provide written certification that he has done so.

4. Beginning on the first Monday of the month in which he is reinstated to the District Bar and continuing on every first Monday of the month for five months, Mr. Bross must submit monthly reports via letter to the Grievance Committee for the Orlando Division of the U.S. District Court for the Middle District of Florida, detailing:

- a. The names and case numbers of each federal court case in which he has appeared since reinstatement; and
- b. Whether he has been the subject of any motions to compel for dilatory practices, show cause orders, or motions for sanctions in those cases.

5. The Clerk is **DIRECTED** to:

- a. Send a copy of this Order and the Grievance Committee's Report and Recommendation (Doc. 82) to the Florida Bar.
- b. Docket this Order in *Perez v. Harrelson*, Case No. 6:15-cv-879 ("**Perez Action**").¹
- c. Distribute a copy of this order to all judicial officers in the Middle District of Florida.

DONE AND ORDERED in Chambers in Orlando, Florida, on July 24, 2017.




ROY B. DALTON JR.
United States District Judge

Copies to:

¹ The Referral Order and the R&R were previously docketed in both the instant action and the Perez Action.

Counsel of Record in:

- (1) *Perez v. Harrelson*, No. 6:15-cv-879
- (2) *Kent v. Brown*, No. 6:15-cv-880
- (3) *Pellechio v. Grose*, No. 6:15-cv-1056
- (4) *Morrison v. Armstrong*, No. 6:16-cv-1809
- (5) *Truex v. City of Palm Bay*, No. 6:16-cv-1810

Drew Sorrell, Chairman of the Grievance Committee for the Orlando Division of the Middle District of Florida

The Florida Bar

All District and Magistrate Judges in each division of the U.S. District Court for the Middle District of Florida