

IN THE SUPREME COURT OF FLORIDA  
(Before a Referee)

THE FLORIDA BAR,  
Complainant,

vs.

JOSEPH L. CARBONARO,  
Respondent.

SUPREME COURT CASE  
NO: 64,228

THE FLORIDA BAR CASE  
NO: 17A82F22

**FILED**

SID J. WHITE

APR 12 1984

CLERK, SUPREME COURT

By \_\_\_\_\_  
Chief Deputy Clerk

REPORT OF REFEREE

I. Summary of Proceedings: Pursuant to the undersigned being duly appointed as Referee to conduct disciplinary proceedings herein according to Article XI of the Integration Rule of The Florida Bar, a hearing was held on March 16, 1984:

The following attorneys appeared as counsel for the parties:

For the Florida Bar, Richard Liss.

For the Respondent, Nicholas R. Friedman.

II. Findings of fact as to the Misconduct with Which Respondent is Charged:

1. There was no factual dispute regarding misconduct charged against the Respondent. Respondent admitted that on August 13, 1982 he entered a plea of guilty in Case No. 82-6030-CR-JA6 in the U. S. District Court for the Southern District of Florida, to the felony charge of conspiracy to possess with intent to distribute quantities of cocaine. The Court found him guilty of this offense and placed him on probation for four (4) years, withholding imposition of a sentence of confinement.

2. Respondent was suspended from the practice of law pursuant to Rule 11.07 of the Integration Rule of the Florida Bar.

3. Although Respondent admitted his criminal conviction, he did not specifically admit that his conduct resulted in a violation of the Code of Professional Responsibility or the Integration Rule proscribing illegal conduct involving moral turpitude (1-102(A)(3)), conduct that adversely reflects on an attorney's fitness to practice law (1-102(A)(6)), or an act contrary to honesty, justice or good morals (Art. XI, Rule 11.02(3)(A)).

Respondent offered no evidence at the hearing, however, which would support a finding that the charged Rule violations did not occur. Rather, he argued only that the sanction of disbarment should not be imposed.

III. Recommendation as to whether the Respondent should be found Guilty.

Accordingly, I recommend that the Respondent be found guilty of the violations of his oath as an attorney, the Integration Rules of the Florida Bar and Disciplinary Rules of the Code of Professional Responsibility, to wit:

- (a) Disciplinary Rules 1-102(A)(1)
- (b) Disciplinary Rules 1-102(A)(3)
- (c) Disciplinary Rules 1-102(A)(6)
- (d) Article XI. Rules 11.02(3)(a) & (b)

IV. Recommendation as to Disciplinary Measures to be Applied:

I recommend that the Respondent be suspended for a period of three (3) years, effective on August 13, 1983 <sup>1/</sup> and thereafter until he shall prove his rehabilitation as provided in Rule 11.10(4).

V. Reasons for the recommendation to suspend rather than disbar the Respondent.

In determining what form of discipline to recommend, I considered the following factors:

1. At the time Respondent committed the crime for which he is being disciplined, he suffered from a personality disorder for which he has sought and received psychiatric treatment. The criminal act is regarded as an "isolated incident" by his treating psychiatrist who reports that Respondent has made significant progress. (Tr. p. 29-33).
2. Respondent is a young man (35 years old) who shows great remorse for his criminal act and who has the ability to contribute exceptional legal talent to the community.

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<sup>1/</sup> The period of suspension, being the maximum allowed by the Rules, would be coextensive with the period of probation imposed in the criminal proceeding, if the suspension period ~~was to~~ commences on August 13, 1983 (one year after the criminal sentence was imposed). (PS)

3. The criminal acts for which Respondent was convicted were unrelated to his practice of law and did not involve the violation of his clients' trust.

4. Although the Respondent committed a serious crime involving the sale of a large quantity of cocaine, it appears that he was not acting out of a corrupt, vile or base motive, but rather out of an ingenuous and misguided desire to "help" his friends.

5. Respondent has suffered personal hardship, embarrassment, humiliation, publicity, and the attendant financial hardships which accompany lack of employment opportunities for a suspended lawyer on federal probation.

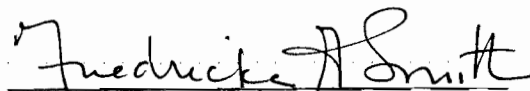
6. The Respondent has evidenced a genuine commitment to initiate a course of both public service and commitment to work with legal services for the poor and to rehabilitate himself for a return to the practice of law.

7. In light of all the circumstances in this case, the Referee believes that the stigma of disbarment is a burden on Respondent which is not necessary to encourage reformation or rehabilitation of Respondent, and would not result in any greater protection of the public than would a three year suspension.

VI. Taxing of Costs:

It is recommended that all reasonable costs of this proceeding should be taxed against Respondent. Bar counsel will submit an itemized list of the costs to counsel for Respondent. If the parties cannot agree as to costs, application can be made to the Referee for a recommendation regarding the appropriate assessment.

Dated this 10<sup>th</sup> day of April, 1984.



FREDRICKA G. SMITH  
REFEREE

Certificate of Service

Copies were sent by U. S. Mail to Richard Liss, Esq.; Nicholas R. Friedman, Esq.; Clerk of Supreme Court of Florida and to The Florida Bar, Tallahassee, Florida 32301-8226 on this 10<sup>th</sup> day of April, 1984.

