

IN THE SUPREME COURT OF FLORIDA
BEFORE A REFEREE

THE FLORIDA BAR,) CASE NO. 65,580
Complainant,) (Confidentiality deemed waived)
vs.) REFEREE: Richard G. Payne
THOMAS W. HEADLEY,)
Respondent.)

FILED
SID J. W. [unclear]
JAN 24 1985
CLERK, SUPREME COURT.
By _____
Chief Deputy Clerk

REPORT OF REFEREE

THIS CAUSE was tried before the Referee on December 21, 1984, and upon consideration of the testimony, pleadings and exhibits the Referee makes and enters this Report:

THE CHARGES

The Bar charges Respondent, Thomas W. Headley, with a violation of Disciplinary Rule 3-101 (B), Code of Professional Responsibility relating to practicing law in violation of professional regulations and with a violation of Article II, Section 2 and Article III, Section 2 of the Integration Rules of The Florida Bar. The gravamen of the Bar's Complaint is that Respondent continued to practice law in 1980, 1981, 1982 and 1983 after having been duly suspended for nonpayment of Bar dues.

Respondent has filed no pleadings with regard to the Bar's Complaint nor The Bar's Request for Admissions and filed only an "Acknowledgment of Receipt" of same. Respondent attended the hearing before the Referee pro se and offered testimony in mitigation.

FINDINGS OF FACT

Respondent is an attorney admitted to practice in Florida since 1969. On October 1, 1980, Respondent was duly suspended from the practice of law for failure to pay annual bar dues. During 1980, 1981, 1982 and 1983, Respondent received official notification from The Florida Bar as to his suspension and as to his delinquency, however, he neglected to file a petition for reinstatement until October 28, 1983. On November 10, 1983,

Respondent was reinstated to the practice of law by the Board of Governors. Respondent has been suspended for nonpayment of bar dues for fiscal year 1984-1985 and no petition for reinstatement has been, thus far, filed by Respondent. The instant Complaint was filed by The Florida Bar on July 12, 1984.

At hearing before the Referee, Respondent appeared and admitted the charges.

FINDINGS OF GUILT
BY REFEREE

The Referee hereby enters a finding of Guilt with respect to the Respondent's violations of Disciplinary Rule 3.101 (B), Code of Professional Responsibility and Article II, Section 2 and Article VIII, Section 2 of The Integration Rules of The Florida Bar.

MATTERS RELATING TO MITIGATION

The Bar recommends that Respondent be suspended from the practice of law for a minimum of three months and one day and be required to provide proof of rehabilitation prior to reinstatement. Respondent contends that a private or public reprimand would be more appropriate.

Respondent has made a favorable impression upon the Referee at the hearing... Respondent was neat and professional in appearance as well as polite and respectful to the Court. In response to the Referee's inquiry as to why Respondent had neglected to pay his bar dues over such a long period of time when the amount to be paid (\$125. to \$140.) was insignificant and had neglected to petition for reinstatement for over three years, when such neglect would obviously result in suspension or revocation of Respondent's right to practice his chosen profession and result in discipline if he were to continue his practice, the Respondent was unable to give a definite reason for his failure.

Respondent advises that he now knows that he is an alcoholic. Respondent advises that he takes full responsibility for his present circumstances and freely admits that he, at this time, should not be representing clients in legal matters. Since August 15, 1984 Respondent has been actively engaged in Alcoholics Anonymous and

is making an attempt to put his life back together. For some time now, Respondent has discontinued the practice of law and now works as an employee at a lead manufacturing plant in Miami. Prior to that time, Respondent had a small private practice specializing in criminal defense work. In addition to Respondent's present problems with the Bar, alcoholism has resulted in a break-up of his marriage. At present, he has no material possessions, his family has been evicted from their home and he has been required to vacate his office which was shared with other attorneys. Respondent's life was in complete shambles to such an extent that, last August, Respondent attempted to place a gun in his mouth and broke down because he was unable to pull the trigger.

Respondent intends to continue working at his present job and continue in AA until he arrives at a state, both mentally and emotionally, where he can resume his law practice.

The Referee has heard testimony from Professor Ray O'Keefe, a member of The Florida Bar and a reformed alcoholic, that Respondent has had daily contact with him since August 14, 1984 and Respondent is making great progress through Alcoholics Anonymous. Professor O'Keefe qualifies as an expert in the area of Alcoholic attorneys and attributes Respondent's failure to pay bar dues to alcoholism.

The Referee notes that there have been no instances of bad conduct by Respondent as a practicing attorney and Respondent has not been cited for contempt of court or to be found to have adversely affected the rights or neglected the interest of a client.

RECOMMENDED DISCIPLINARY ACTION

The Complainant contents that any discipline less than a three months suspension would mean that Respondent could be automatically reinstated without reinstatement proceedings and that a suspension of three months and one day would, in effect, afford the public with an extra measure of protection while at the same time affording Respondent with an opportunity to continue his efforts toward rehabilitation.

It is the opinion of the Referee that the discipline recommended by the Complainant, although not unduly harsh, is nevertheless perhaps not best suited in this case. The shortcoming being

that The Special Committee of The Florida Bar on Alcohol Abuse would not be utilized and, therefore, Respondent would not have the benefit of the committee's assistance during his rehabilitation. Respondent's chances for successful rehabilitation will be greatly enhanced with the committee's assistance. Under the proposal by the Bar understanding practicing attorneys would not be involved in the rehabilitative process and, instead, The Bar would have the limited role of determining whether or not rehabilitation has occurred after the fact.

The Referee recommends that the Respondent, Thomas W. Headley, be found guilty of violating Disciplinary Rule 3.101 (B) of the Code of Professional Responsibility and Article II, Section 2 and Article VIII, Section 2 of The Integration Rules of The Florida Bar and be disciplined as follows:

1. Respondent will be placed on probation for a period of not less than six months, nor less than twelve months, under the supervision and guidance of The Florida Bar Special Committee on Alcohol Abuse, Administrative Law Judge Michael E. Hanrahan, Chairman.¹ Confidentiality in this matter having been waived, the Referee has taken the liberty of discussing the possibility of having the committee supervise Respondent's rehabilitation with the committee Chairman, Administrative Law Judge Michael E. Hanrahan, who advised that the committee would be willing to so serve and with approval of The Supreme Court, Judge Hanrahan would assign attorneys George Tulin, Raymond P. O'Keefe and Richard A. Moore to supervise and monitor Respondent's rehabilitation.

2. Upon payment of the arrearred Bar dues for 1984-1985 and a favorable written report from the Special Committee recommending reinstatement made to The Supreme Court, Respondent would be provisionally reinstated to practice law under the direct supervision and daily monitoring by the Special Committee. Thereafter, upon any report of the Special Committee made to The Supreme Court that Respondent's progress

¹Judge Hanrahan's Committee consists of a network of attorneys throughout Florida who are members of Alcoholics Anonymous. The Florida Bar's charge to the committee reads: Identify, educate, rehabilitate and, when Ordered, supervise the alcoholic attorney.

or rehabilitation has become unsatisfactory and that there exists in their opinion a potential for harm to the public, Respondent may be suspended from the provisional practice of law by The Supreme Court and Respondent would be suspended for a period of three months and one day, and thereafter, Respondent shall show proof of rehabilitation prior to said suspension being lifted.

a. Upon the filing of such an adverse report with the Supreme Court, the Respondent will be entitled to file a response contesting same and shall have the right to be heard on same prior to action upon said adverse committee report by The Supreme Court.

b. After six months the committee shall render a written recommendation to The Supreme Court as to whether Respondent's probation should continue and shall set forth the grounds for the basis of said belief.

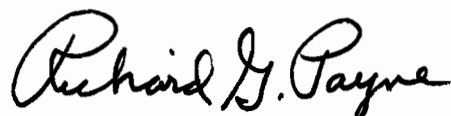
3. The Special Committee shall advise The Supreme Court on a monthly basis of Respondent's progress.

4. Respondent shall continue his participation in Alcoholics Anonymous during the period of his probation and Respondent will not consume any alcoholic beverages.

5. Respondent will not violate The Integration Rules or Code of Professional Responsibility.

6. Costs of this proceeding of \$1,275.30 shall be taxed against Respondent and shall be paid to The Florida Bar within one year of the termination (successful or otherwise) of Respondent's probation. Said costs shall accrue interest at the rate of 12% per annum.

Respectfully submitted this 21st day of January, A.D. 1985.



RICHARD G. PAYNE
Referee

I HEREBY CERTIFY that a true copy of the above Report of

Referee was furnished by U. S. Mail to Thomas W. Headley,
10592 N. W. 7th Terrace, Miami, Florida 33172 and Patricia
S. Etkin, Esquire, Staff Counsel, The Florida Bar, Suite 211,
Rivergate Plaza, 444 Brickell Avenue, Miami, Florida 33131,
this 21st day of January, A.D. 1985.



Judicial Assistant

cc:
Judge Michael E. Hanrahan