

# Supreme Court of Florida

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No. 66,462

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THE FLORIDA BAR, Complainant,

vs.

MICHAEL H. FARVER, Respondent.

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[April 23, 1987]

PER CURIAM.

This attorney-discipline proceeding is before us on The Florida Bar's complaint and the referee's report. We have jurisdiction. Art. V, § 15, Fla. Const.

The respondent initially entered a conditional guilty plea for consent judgment for the imposition of a 60-day suspension before the referee. This Court disapproved the conditional guilty plea and discipline, remanding the cause to the referee for a full disciplinary proceeding on the merits. After a hearing on the merits, the referee found that respondent violated Rule 11.02(3)(a) (conduct contrary to honesty, justice or good morals) of the Integration Rule of the Florida Bar, and Disciplinary Rules 1-102(A)(3) (engaging in illegal conduct involving moral turpitude), 1-102(A)(4) (conduct involving dishonesty, fraud, deceit or misrepresentation), and 1-102(A)(6) (conduct that adversely reflects on fitness to practice law) of The Florida Bar Code of Professional Responsibility. The referee now recommends respondent be

suspended from the practice of law for one year, with proof of rehabilitation prior to any subsequent reinstatement, and that he pay costs.

Respondent argues that the recommended suspension is too harsh. We disagree. The record reflects that Farver intentionally deprived his law firm of fees paid to him by the firm's clients. We approve the referee's findings and recommendations. Accordingly, we hereby suspend respondent from the practice of law for one year, effective thirty days from the date this opinion becomes final, thereby giving respondent sufficient time to close out his practice and take the necessary steps to protect his clients. Judgment for costs in the amount of \$1,618.67 is hereby entered against respondent, for which sum let execution issue.

It is so ordered.

McDONALD, C.J., and OVERTON, SHAW and BARKETT, JJ., and ADKINS, J.  
(Ret.), Concur  
EHRLICH, J., Concur in part and dissents in part with an opinion

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION AND, IF FILED, DETERMINED. THE FILING OF A MOTION FOR REHEARING SHALL NOT ALTER THE EFFECTIVE DATE OF THIS SUSPENSION.

EHRlich, J., concurring in part and dissenting in part.

I concur with the Court's judgment of guilt but dissent as to the discipline imposed.

The Court's opinion recites that "the record reflects that Farver intentionally deprived his law firm of fees paid to him by the firm's clients." This is a polite euphemistic way of saying that he stole or misappropriated fees that rightly belonged to the law firm by whom he was employed. The Court approves the referee's recommended suspension of one year.

Neither party sought review of the referee's findings of fact. The bar urges us to suspend respondent for two years. Respondent asks that his suspension be sixty days.

When this matter came to us initially, respondent had entered a conditional plea of guilt calling for a sixty day suspension and the bar had agreed to this. Apparently the bar had either not developed the facts fully or had woefully misjudged the gravity of respondent's offense. Either scenario is difficult for me to accept considering the bar's responsibility in disciplinary matters.

After being arrested and charged with grand theft, respondent agreed to and made restitution in the amount of \$6,671. The referee did not find any matters in mitigation, except that respondent had no previous disciplinary history.

I am of the opinion that the two year suspension urged by the bar is the bare minimum that should be imposed in this case. I have previously set forth my views in the matter of theft by a partner from his firm in The Florida Bar v. Gillin, 484 So.2d 1218 (Fla. 1986), and by an associate from his employer firm in The Florida Bar v. Stalnaker, 485 So.2d 815 (Fla. 1986).

Suffice it to say that absent extenuating circumstances there should be no place in The Florida Bar for lawyers who steal from whomsoever.

Original Proceeding and Cross-Petition for Review - The Florida Bar

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