

IN THE SUPREME COURT OF FLORIDA  
(Before a Referee)

**FILED**

SID J. WHITE

OCT 4 1985

CLERK, SUPREME COURT

THE FLORIDA BAR,

Complainant,

v.

GEORGE S. McHENRY,

Respondent.

~~CONFIDENTIAL~~ Chief Deputy Clerk

Case No. 66,600  
(TFB No. 06B84H62)

REPORT OF REFEREE

I. Summary of Proceedings: Pursuant to the undersigned being duly appointed as referee to conduct disciplinary proceedings herein according to the article XI of the Integration Rule of The Florida Bar, a hearing was held on July 2, 1985. The enclosed pleadings, orders, transcripts and exhibits are forwarded to The Supreme Court of Florida with this report, constitute the record in this case.

The following attorneys appeared as counsel for the parties:

For The Florida Bar: Steve Rushing

For The Respondent: James V. Caltagirone

II. Findings of Fact as to Each Item of Misconduct of Which the Respondent is Charged: After considering all the pleadings and evidence before me, I accept the tendered Conditional Guilty Plea for Consent Judgment which admits to each act of misconduct alleged in the complaint attached hereto.

III. Recommendation as to Whether or not the Respondent Should Be Found Guilty: I recommend that the respondent be found guilty of the following violations of the Code of Professional Responsibility: That George S. McHenry has violated Disciplinary Rules 1-102(A)(5)(engaging in conduct that is prejudicial to the administration of justice); DR 1-102(A)(6)(engaging in conduct that adversely reflects on his fitness to practice law); DR 6-101(A)(1)(handling a legal matter he was not competent to handle without associating with a competent lawyer); DR 7-102(A)(8)(knowingly engage in illegal conduct or conduct contrary to a disciplinary rule); and DR 7-106(c)(6)(engaging in undignified or discourteous conduct which is degrading to a tribunal).

IV. Recommendation as to Disciplinary Measures to be Applied: I recommend that the respondent receive a public reprimand with appearance before the Board of Governors of The Florida Bar and payment of costs.

V. Personal History and Past Disciplinary Record: After finding of guilt and prior to recommending discipline to

be recommended pursuant to Rule 11.06(9)(a)(4), I considered the following personal history and prior disciplinary record of the respondent to wit:

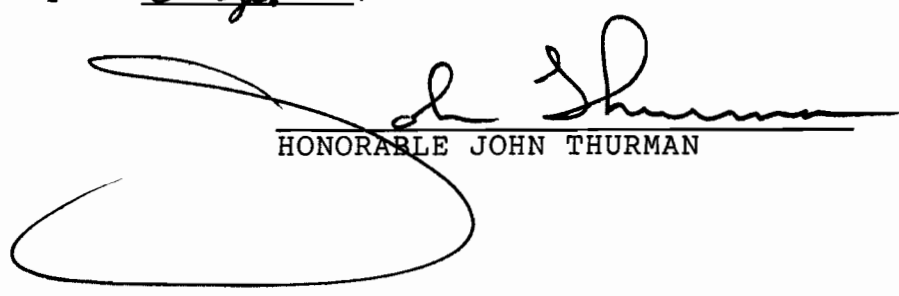
- (1) Age: 38
- (2) Dated Admitted to Bar: October 23, 1975
- (3) Mitigating Factors: Respondent withdrew his appeal and served ten days in county jail on the contempt charge; the trial in which the misconduct arose was respondent's first jury trial; respondent waived probable cause finding at the Grievance Committee; and respondent entered a consent guilty plea at Referee level.
- (4) Aggravating Factors: Conduct which resulted in contempt included labeling the trial a "star chamber proceeding" and other highly improper conduct.
- (5) Respondent has no prior disciplinary record.

VI. Statement of Costs and Manner in which Costs Should Be Taxed: I find the following costs were reasonably incurred by The Florida Bar.

A. Grievance Committee Level Costs	
1. Administrative Costs	\$ 150.00
2. Transcript costs of 3/16/84 State v. Kenneth Ray Moore #83-97749-AL	1,075.70
3. Staff Investigator Costs	366.80
B. Referee Level Costs	
1. Administrative Costs	\$ 150.00
2. Court Reporter Costs (7/2/85)	80.00
3. Branch Staff Counsel Costs	<u>32.50</u>
TOTAL AMOUNT DUE:	<u>\$ 1,855.00</u>

It is apparent that other costs have or may be incurred. It is recommended that all such costs and expenses together with the foregoing itemized costs be charged to the respondent, and that interest at the statutory rate shall accrue and be payable beginning 30 days after the judgment in this case becomes final unless a waiver is granted by The Board of Governors of The Florida Bar.

DATED this 19<sup>th</sup> day of August, 1985.

  
HONORABLE JOHN THURMAN

Copies furnished to:

James V. Caltagirone, Attorney for Respondent  
Steve Rushing, Branch Staff Counsel  
John T. Berry, Staff Counsel