

FILED

SID J. WHITE

JUL 18 1985

CLERK, SUPREME COURT

BY _____
Chief Deputy Clerk

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,
Complainant,

v.

DAVID L. KLINE,
Respondent.

Supreme Court Case
No. 66,821

The Florida Bar Case
No. 17D85F65

REPORT OF REFEREE

I. SUMMARY OF PROCEEDINGS:

1. The Florida Bar filed its Complaint and Request for Admissions in this cause on April 4, 1985. The undersigned was duly appointed as Referee by the Chief Justice of the Supreme Court of Florida by order dated May 6, 1985. Respondent has not filed any responsive pleadings. Accordingly, The Florida Bar filed a Motion for Judgment on the Pleadings on May 29, 1985 which came on for hearing on June 28, 1985.

The following attorneys appeared for the respective parties:

On behalf of The Florida Bar: Richard B. Liss, Esquire
On behalf of Respondent: No appearance

II. FINDINGS AS TO SUFFICIENCY OF NOTICE AND FINDINGS OF FACT AS TO EACH ITEM OF MISCONDUCT OF WHICH RESPONDENT IS CHARGED:

After considering all pleadings, documentary evidence and argument, the undersigned referee finds:

1. That Respondent is, and at all times hereinafter mentioned was, a member of The Florida Bar subject to the jurisdiction and disciplinary rules of the Supreme Court of Florida.

2. That copies of the Complaint and Request for Admissions filed by The Florida Bar were sent to Respondent by certified mail, return receipt requested, to his last known address. The return receipt was executed and has been offered and received into evidence. It would appear that Respondent's agent executed the return receipt in that the aforesaid documents were mailed to Respondent at his place of incarceration.

3. That a copy of the Motion For Judgment On The Pleadings was sent by regular mail to Respondent at his place of incarceration.

4. That thereafter the undersigned's Order Setting Hearing On Motion for Judgment On The Pleadings was sent to Respondent by certified mail, return receipt requested. The return receipt was executed and has been offered and received into evidence.

5. That Florida Bar Integration Rule, article XI, Rule 11.01(2) states:

mailing by registered or certified mail of papers or notices prescribed in these rules to the last mailing address of an attorney as shown by the official records in the office of the executive director of The Florida Bar shall be sufficient notice and service unless this court shall direct otherwise.

6. That Florida Bar Integration Rule, article XI, Rule 11.13(2) provides:

service of process if [sic] not required to obtain jurisdiction over respondents in disciplinary proceedings; but due process requires the giving of reasonable notice and such shall be effective by the service of the complaint upon the respondent by mailing a copy thereof by registered or certified mail return receipt requested to the last known address of the respondent according to the records of The Florida Bar or such later address as may be known to the person effecting the service.

7. That Respondent, by virtue of the aforesaid mailing and receipt of pleadings and Referee's Order, has received sufficient notice of these proceedings as required by the Integration Rule.

8. That at all times material to the investigation and prosecution of the various allegations giving rise to the complaint sub judice, The Florida Bar has diligently pursued its obligation to contact Respondent and provide him with notice of all proceedings, pleadings and hearings.

9. That at all times material to this cause, Respondent has been afforded ample opportunity to file pleadings, personally appear before this Referee, present witnesses, testimony and all other evidence material and relevant to this cause.

10. That the requests propounded to Respondent in the Florida Bar's Request for Admissions are deemed admitted by virtue of Respondent's failure to respond to them.

11. That based upon the foregoing, the undersigned finds that all allegations in The Florida Bar's Complaint have been proven by clear and convincing evidence and are incorporated by reference as if set forth fully herein.

12. That in concise form, Respondent unlawfully and knowingly had in his actual or constructive possession a controlled substance, cannabis, in an amount of two thousand (2,000) pounds or more, but less than ten thousand (10,000) pounds, contrary to the laws of this state.

III. RECOMMENDATIONS AS TO WHETHER RESPONDENT SHOULD BE FOUND GUILTY:

As to all allegations, the undersigned recommends that Respondent be found guilty of violating the following Disciplinary Rules of the Code of Professional Responsibility and Integration Rules: Disciplinary Rules 1-102(A) (1) [a lawyer shall not violate a disciplinary rule], 1-102(A) (3) [a lawyer shall not engage in illegal conduct involving moral turpitude], and 1-102(A) (6) [a lawyer shall not engage in conduct that adversely reflects on his fitness to practice law] of the Code of Professional Responsibility, and article XI, Rules 11.02(3) (a) [commission by a lawyer of any act contrary to honesty, justice or good morals], and 11.02(3) (b) [misconduct constituting a felony] of the Integration Rule of The Florida Bar.

IV. STATEMENT AS TO PAST DISCIPLINE:

Respondent has not been the subject of disciplinary sanctions except for the instant matter.

V. STATEMENT OF COSTS AND RECOMMENDATION AS TO THE MANNER IN WHICH COSTS SHOULD BE TAXED:

The undersigned finds the following costs were reasonably incurred by The Florida Bar:

Administrative Costs at Referee level	\$150.00
(article XI, Rule 11.06(9) (a) of the Integration Rule of The Florida Bar)	
Bar Counsel Travel Expense	\$ 19.62
Court Reporter Attendance and Transcript, Referee level proceeding	\$ 88.45
TOTAL COSTS	\$258.07

It is recommended that Respondent be taxed costs in the amount of

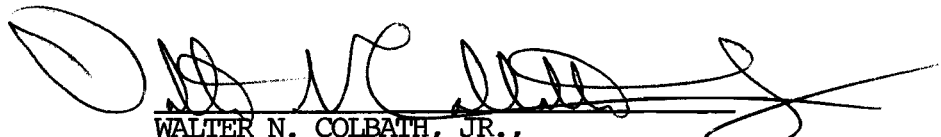
Two Hundred Fifty-Eight Dollars and Seven Cents (\$258.07).

VI. RECOMMENDATION AS TO DISCIPLINARY MEASURES TO BE APPLIED:

The undersigned referee recommends that Respondent be disbarred for a period of ten (10) years. Trafficking in drugs is a heinous crime when committed by non-lawyers. The gravity of the offense is exacerbated many times over when committed by one who is sworn to uphold the laws of this state. Readmission should be conditioned upon full compliance with all rules and regulations governing admission to the Bar as well as restoration of Respondent's civil rights. Costs of these proceedings should be taxed against Respondent in the amount of Two Hundred Fifty-Eight Dollars and Seven Cents (\$258.07) with execution to issue and with interest at a rate of twelve per cent (12%) to accrue on all costs not paid within thirty (30) days of entry of the Supreme Court's Final Order in this cause, unless time for payment is extended by the Board of Governors of The Florida Bar.

DATED this 15 day of July, 1985, at West Palm Beach,
Palm Beach County, Florida.

Respectfully submitted,


WALTER N. COLBATH, JR.,
REFEREE

Copies furnished:

David L. Kline, Respondent
Richard B. Liss, Bar Counsel