

IN THE SUPREME COURT OF FLORIDA  
(Before a Referee)

THE FLORIDA BAR,

CONFIDENTIAL

Complainant,

CASE NO. 67,543  
(TFB No. 13A86H17)

v.

MICHAEL V. GIORDANO,

Respondent.

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, hearings were held on July 10, 1986. The Pleadings, Notices, Motions, Orders, Transcripts and Exhibits all of which 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 David Ristoff, Esquire

For The Respondent Laurence I. Goodrich, Esquire

- 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 find:

A Complaint was filed by the Florida Bar against Mr. Giordano to which a Motion to Dismiss was timely filed. Subsequently the Florida Bar filed an Amended Complaint to which Mr. Giordano filed an Answer wherein each and every allegation of the Amended Complaint was admitted. At the hearing on July 10, 1986 Mr. Giordano through his counsel reaffirmed the admission of guilt to each of the charges (see page 4, Transcript.) Upon consideration, the Referee made a finding of guilt as to each alleged charge and by stipulation, the matter proceeded into the sentencing phase whereupon matters in mitigation and/or aggravation were considered (see page 5, Transcript.)

III. Recommendations as to whether or not the Respondent should be found guilty:

I recommend that the Respondent be found guilty and specifically that he be found guilty of violating the following Integration Rules of The Florida Bar and/or Disciplinary Rules of the Code of Professional Responsibility, to-wit:

Integration Rule, Article XI, Rule 11.02(3)(b), (convicted of a felony;) DR 1 - 102(A)(6), (conduct that adversely reflects on his fitness to practice law.)

IV. Recommendation as to Disciplinary measures to be applied: I recommend that the Respondent, MICHAEL V. GIORDANO, be suspended from the practice of law for a period of three (3) years, which said suspension would run concurrently with and from his automatic three-year suspension which commenced on February 2, 1985. It is further recommended that in the event there were to be an early termination of the automatic three-year suspension referred to immediately above, that the suspension recommended as a result of the within proceedings be similarly lifted. Further, before regaining the right to practice law as a member of the Florida Bar, MICHAEL V. GIORDANO shall submit proof of rehabilitation.

V. Personal History and Past Disciplinary Record: After finding of guilty 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:

Age: 35 years old as of the date of the hearing before this Referee.

Date admitted to Bar: 1976

Prior disciplinary convictions and disciplinary measures imposed therein: none

Other personal data: I have been impressed with the amazing similarities between the instant matter and the case of The Florida Bar v. Joseph L. Carbonaro, 464 So.2d 549, (Fla. 1985.) In that case the Referee considered seven factors in making his recommendations. But for a slight change the undersigned finds the same seven factors to be applicable in the instant case and same are hereinafter set forth:

1. At the time Respondent committed the crime for which he is being disciplined he suffered from a personality disorder caused by protracted use of cannabis, commonly known as marijuana, for which he has sought and received psychiatric treatment, (see the letter of Dr. A. G. Gonzalez, M.D.) Mr. Giordano sought drug-rehabilitation treatment and has responded extremely well.

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.

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, 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. Statement of costs and manner in which cost should be taxed: I find the following costs were reasonably incurred by The Florida Bar.

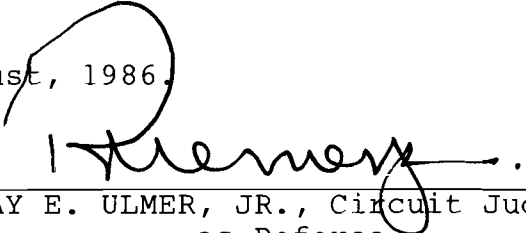
B. Referee Level Costs:

1. Administrative Costs-----	\$	150.00
2. Staff Investigator Expenses (Time & Mileage)-----		174.84
3. Court Reporter Expenses (Transcript for Bar Counsel)-----		76.30
4. Bar Counsel Expenses (Meals & Mileage)-		28.84
5. Court Reporter Expenses (Preparation of Original Transcript)-----		<u>261.60*</u>
	\$	691.58

\*To be reimbursed to Pasco County Board of County Commissioners.

It is apprent 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 within ninety (90) days after readmission to the Florida Bar or the expiration of the further disciplinary action taken in this case, whichever last occurs unless a waiver is granted by the Board of Governors of the Florida Bar.

Dated this 19 day of August, 1986.

  
RAY E. ULMER, JR., Circuit Judge  
as Referee

Copies to:

Bar Counsel  
Counsel for Respondent  
Staff Counsel, The Florida Bar, Tallahassee, Florida 32301