

IN THE SUPREME COURT OF FLORIDA  
(Before a Referee)

THE FLORIDA BAR,

Complainant,

v.

WAYNE WILLIAM POMEROY,

Respondent.

CONFIDENTIAL

Supreme Court Case  
No. 68,713

The Florida Bar Case  
No. 17F86F79

REPORT OF REFEREE

I. SUMMARY OF PROCEEDINGS:

Respondent's Consent Judgment for Unconditional Guilty Plea and Entry of Final Order of Discipline and Waiver of Probable Cause Finding was tendered to The Florida Bar on April 23, 1986. The Florida Bar then filed a Petition for Approval of Consent Judgment with the Supreme Court of Florida on April 30, 1986. The undersigned was duly appointed as Referee in this cause by the Chief Justice of the Supreme Court of Florida by order dated May 13, 1986. A hearing was held on June 3, 1986 so that the Referee could be satisfied as to the providency of the plea and the appropriateness of the agreed disciplinary sanction. Upon due deliberation and being satisfied that the discipline set forth in Respondent's Consent Judgment is appropriate, this Referee has determined to approve Respondent's Consent Judgment and recommend its ultimate acceptance by the Supreme Court of Florida.

The following appeared for the respective parties:

On Behalf of The Florida Bar: Richard B. Liss, Esq.

On Behalf of Respondent: Lance J. Thibideau, Esq.

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

1. Respondent was traveling in his motor vehicle on a highway situated in Broward County, Florida when said vehicle was struck in the rear by a motor vehicle operated by Paul Stewart (hereinafter referred

to as "Stewart").

2. Respondent and Stewart exited their respective vehicles and an altercation ensued during which Respondent struck Stewart, with his hand, at and about Stewart's face.

3. Respondent was charged and ultimately pled nolo contendere to an amended Information charging him with aggravated battery and aggravated assault.

4. The aforesaid plea was accepted by the court, adjudication of guilt was withheld and Respondent was placed in a Community Control program for a period of two (2) years, ordered to continue counseling and to make restitution to his victim.

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

Respondent should be found guilty of violating Disciplinary Rule 1-102(A)(6) [a lawyer shall not engage in any other conduct that adversely reflects on his fitness to practice law] of the Code of Professional Responsibility for his assault and battery upon Stewart's person.

IV. STATEMENT AS TO PAST DISCIPLINE AND PERSONAL HISTORY:

Respondent was admitted to The Florida Bar on October 25, 1974 and is forty (40) years of age. He has no previous record of any disciplinary sanction being imposed against him in Florida Bar disciplinary proceedings.

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 and should be taxed against Respondent:

Administrative Costs at Grievance Committee Level (Fla. Bar Integr. Rule, art. XI, Rule 11.06(9) (a)) .....	\$150.00
Administrative Costs at Referee Level (Fla. Bar Integr. Rule, art. XI, Rule 11.06(9) (a)) .....	\$150.00
Appearance Fee of Court Reporter and Transcript .....	\$192.33
Bar Counsel Travel .....	\$ 7.72
TOTAL.....	\$500.05

VI. RECOMMENDATION AS TO DISCIPLINARY MEASURES TO BE APPLIED:

The undersigned recommends that Respondent's Consent Judgment be accepted by the Supreme Court of Florida and that a Public Reprimand be imposed which shall be published in the Southern Reporter. This recommendation is predicated upon Stewart's testimony that the foregoing discipline was satisfactory to him and this Referee's review of all the attendant facts and circumstances of this incident.

Costs in these proceedings should be taxed against Respondent in the amount of Five Hundred Dollars and Five Cents (\$500.05) with execution to issue and with interest to accrue at a rate of twelve per cent (12%) 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 21<sup>st</sup> day of August, 1986, at Miami Beach, Dade County, Florida.

  
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JEFFREY BOSINEK, Referee

Copies furnished to:

Richard B. Liss, Attorney for Complainant  
Lance J. Thibideau, Attorney for Respondent