

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,)
Complainant,)
v.)
MANUEL LOPEZ-CASTRO,)
Respondent.)

CONFIDENTIAL

The Florida Bar File
No. 11L87M11

Supreme Court Case
No. 69,162

REPORT OF REFEREE

By _____

I. SUMMARY OF PROCEEDINGS: Pursuant to the undersigned being duly appointed as Referee for the Supreme Court of Florida to conduct disciplinary proceedings as provided for by article XI, Rule 11.06 of the Integration Rule of The Florida Bar, a Final Hearing was held in chambers on November 13, 1986. All of the pleadings, transcripts, notices, motions, orders and exhibits are forwarded with this report and the foregoing constitutes the record of this case. The transcript of the Final Hearing held November 13, 1986 shall be hereinafter referred to as "FHT".

The following attorneys acted as counsel for the parties:

For The Florida Bar: Louis Thaler
211 Rivergate Plaza
444 Brickell Avenue
Miami, Florida 33131

For the Respondent: D. Robert Silber
Justice Building-East Penthouse
524 South Andrews Avenue
Fort Lauderdale, Florida 33301

Respondent has been a fugitive from the federal criminal justice system since his failure to voluntarily surrender to the Federal Correctional Institution in Tallahassee, Florida on or before January 28, 1986, as was required by the sentence imposed by Federal District Judge James W. Kehoe based on Respondent's adjudication of guilt of two felonies on December 16, 1985. Notice of these proceedings was furnished to Respondent at his record bar address, at his last known

address and to his counsel in the underlying criminal matter, Thomas D. Sclafani. Since Mr. Sclafani declined to represent Respondent in these proceedings, I appointed D. Robert Silber, Esq. to represent Respondent's interests. Mr. Silber attempted to contact Respondent, but his efforts produced no contact. Accordingly, these proceedings were conducted without personal appearance of Respondent.

II. FINDINGS OF FACT: I find the following facts to be supported by the evidence before me, such evidence including documentary evidence presented by Bar Counsel and the testimony of Daniel Cassidy, the Assistant United States Attorney who prosecuted the underlying felony case and the testimony of Joseph McSorley, the Chief Assistant to the United States Attorney:

1. That Respondent, is and at all times hereinafter mentioned was, a member of The Florida Bar, albeit suspended from the practice of law by order of the Supreme Court effective March 17, 1986, subject to the jurisdiction and disciplinary rules of the Supreme Court of Florida.

2. That on or about December 1, 1984, a thirty (30) count Federal Indictment was filed in the United States District Court, Southern District of Florida, (Case No. 84-853-CR), alleging that the Respondent, had violated various sections of the United States Code by acting as the agent and attorney for other named defendants in that he knowingly invested the illicit profits of a marijuana smuggling syndicate and acquired and maintained assets through Panamanian corporations established for the sole purpose of concealing the identity of the other named defendants in the acquisition, maintenance and disposition of illicit assets.

3. That on or about October 4, 1985, Respondent was convicted by a jury in the United States District Court for the Southern District of Florida on numerous counts of the Indictment.

4. That on or about December 16, 1985, the Respondent was adjudicated guilty to Counts 1, 2, 11, 13, 14, 16, 19, 22,

26, 28, and 29 of the Indictment and sentenced to twenty-five (25) years incarceration and ordered to pay a \$25,000 fine.

5. That subsequently, a second indictment was filed in the U.S. District Court, Southern District of Florida (Case No. 85-146-CR) alleging in two counts that Respondent was involved in a conspiracy to corruptly influence, obstruct, and impede and endeavor to influence, obstruct and impede the due administration of justice in a grand jury investigation pending in the Southern District of Florida.

6. That Respondent pled guilty to Count I of the second indictment and was adjudicated guilty to Count I of the second indictment and sentenced to an additional two (2) years incarceration.

7. That Respondent was to voluntarily surrender to the Federal Correctional Institution, Tallahassee, Florida on January 28, 1986 to begin serving a 27 year term of incarceration based on the adjudications of guilt described above.

8. That Respondent failed to voluntarily surrender and remains a fugitive to date.

III. RECOMMENDATIONS AS TO GUILT: Respondent has been convicted and adjudicated guilty of various felonies involving his participation in a large scale marijuana smuggling operation and involving the presentation of false documentation to a grand jury. Since Respondent has not contested his innocence, personally or through counsel, I have no reason to go behind the convictions and adjudications of guilt. Accordingly, I find Respondent guilty of those violations set forth in The Florida Bar's Complaint, to wit, Article XI, Rule 11.02(3)(a) (commission of an act contrary to honesty, justice and good morals) and 11.02(3)(b), (commission of a crime) of the Integration Rule of The Florida Bar and Disciplinary Rules 1-102(A)(4) (conduct involving dishonesty, fraud, deceit or misrepresentation); 1-102(A)(5) (conduct that is prejudicial to the administration of justice); 1-102(A)(6) (conduct that adversely reflects on fitness to practice law) of the Code of Professional Responsibility.

IV. RECOMMENDATION AS TO DISCIPLINARY MEASURES TO BE IMPOSED:

According to the testimony of Daniel Cassidy, the Assistant United States Attorney who prosecuted Respondent in the criminal matter, Respondent had participated in a drug smuggling organization responsible for the illegal importation of approximately one and a half million pounds of marijuana into the United States during the period 1977 through 1981. Respondent's participation was as "the attorney for the organization." Respondent was "aware at every step of just what the organization was doing." (FHT. 7). Respondent "knew that they were involved in the smuggling of drugs." Respondent "assisted in their money laundering activities." (FHT. 8). The money laundering operation is detailed on pages 8 through 9 of the transcript of the Final Hearing.

Further, according to the testimony of Mr. Cassidy regarding the second indictment, Respondent, during the course of the criminal investigation, was served with a grand jury subpoena to supply records to the Federal Grand Jury in Miami. Respondent was involved in a scheme to falsify exculpatory letters and knowingly submitted those false letters to the Federal Grand Jury. Respondent pled guilty to Count I of the second indictment described above.

Joseph McSorley, the Chief Assistant to Leon B. Kelner, the United States Attorney, testified as to the position of the United States Attorney's Office with regard to a recommendation as to whether Respondent should be disbarred. Mr. McSorley's testimony, in part, shall be repeated here.

"Anybody who has the education and the background of a lawyer and betrays the public and the Bar's trust and confidence in him and his position as an officer of the court, forfeits substantial rights, and one of those rights, clearly, is the right to practice law in the local, state and federal courts of the State of Florida." (FHT. 12).

.... Mr. Lopez Castro, we submit, violated his moral, social and more importantly to this proceeding, he violated his oath as an attorney. He has forfeited his right, and we say perpetually, to practice law in this state. For those reasons, we urge the court to submit a recommendation for disbarment." (FHT. 15).

Accordingly, and based upon the authority of The Florida Bar v. Marks, 492 So.2d 1327 (Fla. 1986); The Florida Bar v. Price, 478 So.2d 812 (Fla. 1985); The Florida Bar v. Hecker, 475 So.2d 1240 (Fla. 1985); The Florida Bar v. Kline, 475 So.2d 1237 (Fla. 1985); The Florida Bar v. Wentworth, 469 So.2d 127 (Fla. 1985); The Florida Bar v. Travelstead, 435 So.2d 832 (Fla. 1983); The Florida Bar v. Beasley, 351 So.2d 959 (Fla. 1977), I recommend that Respondent be disbarred from the practice of law in the State of Florida.

V. RECOMMENDATION AS TO COSTS:

I find the following costs to have been reasonably incurred by The Florida Bar.

Administrative Charge	
Referee Level	\$ 150.00
Transcript	
Referee Hearing 11/13/86	<u>96.95</u>
Total	\$ 246.95 =====

Respectfully submitted this 31 day of December, 1986.


STANTON S. KAPLAN
Referee

Copies to: Louis Thaler, Esq.
D. Robert Silber, Esq.
Emanuel Lopez-Castro