

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

The Florida Bar,
Complainant,
v.
THOMAS J. DORSEY,
Respondent.

CONFIDENTIAL
Florida Bar File
CASE NO. 07B87C06
Supreme Court
CASE NO. 70,414

REPORT OF REFEREE

I. Summary of Proceedings: Pursuant to the undersigned being duly appointed as referee to conduct disciplinary proceedings herein according to the Rules of Discipline, hearings were held on the following dates: September 18, 1987 (hearing by telephone conference), and September 28, 1987 (final hearing).

The following attorneys appeared as counsel for the parties:

For the Florida Bar: LOUIS THALER

For the Respondent: THOMAS J. DORSEY, in pro personam

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, pertinent portions of which are commented upon below, I find:

As to Paragraph 8 of the Complaint

The respondent is charged with violating Article XI Rule 11.02 (3) (a) of the Florida Bar's Integration Rule for conduct contrary to honesty, justice or good morals and the following Disciplinary Rules of The Florida Bar's Code of Professional Responsibility: 1-1-2(A) (3) for engaging in illegal conduct involving moral turpitude, 1-102(A) (4) for engaging in conduct involving dishonesty, fraud, deceit or misrepresentation and 1-102(A) (6) for engaging in other misconduct which reflects adversely on his fitness to practice law.

On December 9, 1985, the United States of America filed Indictment No. CR 485-75 in the United States District Court for the Southern District of Georgia, Savannah Division, (Complainant's

Exhibit 1), charging the respondent and others with:

Count One: conspiring to import into the United States, marihuana, a controlled substance, in violation of Title 21, U.S. Code, Section 952(a).

Count Two: conspiring to unlawfully possess with intent to distribute and distribute in excess of one thousand pounds of marihuana, a controlled substance in violation of Title 21, U.S. Code, Section 841(a)(1).

Count Three: aided and abetted by each other and did import in excess of one thousand pounds of marihuana, a controlled substance, in violation of U.S. Code, Sec. 2, and Title 21, U.S. Code, Sections 952(a) and 960.

Count Four: aiding and abetting each other by possessing with intent to distribute in excess of one thousand pounds of marihuana, a controlled substance, in violation of Title 18, U.S. Code, Sec. 2, and Title 21, U.S. Code, Sec. 841(a)(1).

Respondent pleaded not guilty, and after trial before a jury, was found guilty as to Counts One and Two, and not guilty as to Counts Three and Four, and received a total sentence of ten years in prison and a fine of \$20,000.00. (Complainant's Exhibits 2 and 3).

The determination of guilt by the trial court is "conclusive proof" of the facts alleged in Counts One and Two of the indictment. The referee is not empowered to go behind the conviction and try the matter de novo. *The Florida Bar v. Vernell*, 374 So.2d. 473(Fla. 1979) and *The Florida Bar v. Heller*, 473 So. 2d.1250 (Fla. 1985). Accordingly, the referee finds that the respondent did in fact conspire with others to import marihuana into the United

States in violation of federal law and further, participated in those acts as set forth on pages two through nine of the said indictment (Complainant's Exhibit One).

The referee also finds that the respondent did conspire with others to possess with intent to distribute in excess of one thousand pounds of marihuana in violation of federal law, and participated in those acts set forth on page 10 of the indictment. (Complainant's Exhibit One).

The referee has considered the testimony of the respondent and his witness as presented at the hearing and has also considered the results of the polygraph test (Respondent's Exhibit One).

III. Recommendation as to Whether or Not the Respondent Should

Be Found Guilty: As to Paragraph 8 of the complaint I make the following recommendations as to guilt or innocence: I recommend that the respondent be found guilty and specifically that he be found guilty of the following violations of Article XI Rule 11.02(3) (a) of The Florida Bar's Integration Rule and the following Disciplinary Rules of The Florida Bar's Code of Professional Responsibility: 1-102(A) (3); 1-102(A) (4) and 1-1-2(A) (6), to-wit: The respondent engaged in conduct contrary to honesty, justice or good morals; engaged in conduct involving moral turpitude and dishonesty; all of which certainly reflected adversely on his fitness to practice law by:

- a. conspiring with others to import marihuana in violation of federal law, and
- b. conspiring with others to distribute same.

IV. Recommendation as to Disciplinary Measure to be Applied:

I recommend that the respondent be disbarred from the practice of law in Florida.

V. Past Disciplinary Record

It is to be noted that the respondent, subsequent to the time of the federal indictment and conviction referred to in this report, was charged by information with the unlawful sale and trafficking of a controlled substance by the State Attorney for Dade

County, Florida. (Complainant's Exhibit Four). Respondent pleaded guilty and judgment was entered thereon. (Complainant's Exhibit Five). The Florida Bar thereupon filed its Notice of Felony Conviction with the Supreme Court. (Complainant's Exhibit 6).

VI. Statement of Costs and Manner in Which Cost Should

Be Taxed: I find the following costs were reasonable incurred by The Florida Bar:

Administrative costs at grievance committee level under Rule 3-7.5(k) (1) (5)	\$150.00
Administrative cost at referee level under Rule 3-7.5(k) (1) (5)	150.00
TOTAL ITEMIZED COSTS	\$300.00

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.

Dated this 30th day of October, 1987.



Eli Bregger, Referee

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Report of Referee was mailed to Thomas J. Dorsey, Respondent, Federal Prison Camp, Texarkana, Texas; Louis Thaler, Esq., Bar Counsel, The Florida Bar, 444 Brickell Avenue, Miami, FL 33131 and John T. Berry, Esq., Staff Counsel, The Florida Bar, Tallahassee, FL 32301, this 2nd day of November, 1987.


