

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,
Complainant,

vs.

MICHAEL SIERRA,
Respondent.

CONFIDENTIAL
Case No. 70,857
(TFB No. 8619600-13C
formerly 13C86133)

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, and Rule 3-7.5, Rules of Discipline, a final hearing was held on October 28, 1987. The enclosed pleadings, orders, transcripts and exhibits are forwarded to The Supreme Court of Florida with this report and constitute the record in this case.

The following attorneys appeared as counsel for the parties:

For The Florida Bar: Bonnie L. Mahon
For the Respondent: David Michael Carr

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 accept the tendered conditional guilty plea for consent judgment for a five (5) year disbarment, retroactive to May 23, 1985, and payment of costs. I find that on March 30, 1983, The Federal Grand Jury, Middle District of Florida, Tampa, Florida, charged respondent with the offense of conspiracy to commit extortion in violation of Title 18, United States Code, Section 1951(a). The respondent was tried before a jury on the charge of conspiracy to commit extortion and on September 16, 1983, respondent was adjudicated guilty of the same and was sentenced to four (4) years confinement at the Eglin Air Force Base Federal Prison Camp, Florida. I further find that the respondent's felony conviction constitutes conclusive proof of the criminal offenses of which respondent was charged, pursuant to the Rules of Discipline of The Florida Bar, Rule 3-7.2(i)(2).

III. Recommendation as to Whether or Not the Respondent Should Be Found Guilty:

I recommend that the respondent be found guilty of violating the following sections of the Code of Professional Responsibility: Florida Bar Integration Rule, Article XI, Rule 11.02(3)(a) (commission of an act contrary to honesty, justice or good morals); Florida Bar Integration Rule, Article XI, Rule 11.02(3)(b) (commission of a felony or misdemeanor); DR 1-102(A)(3) (engage in illegal conduct involving moral turpitude); and DR 1-102(A)(6) (engage in conduct that adversely reflects on fitness to practice law).

IV. Recommendation as to the Disciplinary Measures to Be Applied: I recommend that the respondent's conditional guilty plea

for consent judgment be accepted, and that he be disbarred from the practice of law for a period of five (5) years, retroactive to may 23, 1985. I further recommend that respondent be assessed the cost of these proceedings.

V. Personal History and Past Disciplinary Record: After a finding of guilt and prior to recommending discipline pursuant to Rule 11.06(9)(a)(4), and Rule 3-7.5(k)1(4), Rules of Discipline, I considered the following personal history and prior disciplinary record of the respondent, to wit:

- (1) Age: 43
- (2) Date admitted to the Bar: June 10, 1968
- (3) Mitigating Factors: No prior history of discipline.
- (4) Aggravating Factors: Nature of respondent's misconduct

VI. Statement of Costs and Manner in Which Costs Should be Taxed: I find the following costs were reasonably incurred by The Florida Bar:

Grievance Committee Level	
Administrative Costs.....	\$ N/A
Referee Level	
Administrative Costs.....	150.00
Court Reporter Costs:	
Appearance Fee.....	35.00
Transcript Fee.....	49.04
Assistant Staff Counsel Expenses.....	27.54
Staff Investigator Expenses.....	42.60
TOTAL COSTS:	<u>\$304.18</u>

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 and that interest at the statutory rate shall accrue and be payable beginning thirty (30) days after the judgment in this case becomes final unless a waiver is granted by the Board of Governors of The Florida Bar.

Dated this 7th day of December, 1987.


Honorable B. J. Driver
Referee

cc: David Michael Carr, Attorney for Respondent
Bonnie L. Mahon, Assistant Staff Counsel
John T. Berry, Staff Counsel