

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,
Complainant,

vs.

MELVIN R. HORNE,
Respondent.

Case No. 70,932

TFB File No. 02-87218

REPORT OF REFEREE

FILED

JAN 23 1988

CLERK, SUPREME COURT

By _____
Deputy Clerk

I. SUMMARY OF PROCEEDINGS

Pursuant to the undersigned being duly appointed as referee to conduct disciplinary proceedings herein according to Rule 3-7.5, Rules of Discipline, the following proceedings occurred:

On July 30, 1987, The Florida Bar filed its Complaint against Respondent as well as its Request for Admissions in these proceedings. All of the aforementioned pleadings, attachments thereto, and exhibits received in evidence, and this report constitute the record in this case and are forwarded to the Supreme Court of Florida.

II. FINDINGS OF FACT

A. Jurisdictional Statement. Respondent is, and at all times mentioned during this investigation was, a member of The Florida Bar, subject to the jurisdiction and Disciplinary Rules of the Supreme Court of Florida.

B. Narrative Summary Of Case.

There is no dispute as to the conviction of federal felony as set forth herein. In the testimony by Respondent, MELVIN R. HORNE, before the undersigned, he explained how he became enmeshed in dealings and machinations of his client and fellow conspirator, Robert John Dugan, with no intention of committing the unlawful acts he was charged with or any inkling of the scheme he had unknowingly participated in. In the lengthy trial, the government prosecuted the case vigorously and Respondent fiercely defended himself but was convicted on four counts.

In Count I, he was charged with knowingly and willfully conspiring with his client, Dugan, to impede and obstruct the collection of income tax setting forth with particularity the various methods and acts employed to accomplish this objective. He was found guilty on this Count and was sentenced to serve five years imprisonment commencing January 3, 1986.

Respondent was also found guilty and adjudicated guilty of Counts II, VII, and XII, constituting various acts in violation of federal statutes. In each of these counts, he was committed to custody of the federal attorney general for a period of five years imprisonment but execution of sentence was suspended and he was placed on probation for five years beginning at the conclusion of the five year imprisonment imposed under Count I. All probation to run consecutive to imprisonment imposed in Count I.

These proceedings were affirmed on appeal.

It was not appropriate nor proper to receive evidence bearing on guilt or innocence of Respondent of the original criminal charge. However, Respondent was given opportunity to testify as to any facts which might be considered in mitigation of the sanctions administered in these disciplinary proceedings.

Paragraph 3-7.2(b), Rules of Discipline, provide that a determination or judgment of guilt of a member of The Florida Bar by a court of competent jurisdiction upon a felony trial

. . . shall be conclusive proof of guilt of the criminal offense charged for the purposes of these rules.

Consequently, the allegations included in the charges attached to the Complaint are proven facts.

The charges as set forth in Paragraph Seven of the Complaint in this disciplinary proceeding and the findings of the Court thereon, are as follows:

1. Charge: Disciplinary Rule 1-102(A)(1): A lawyer shall not violate a disciplinary rule.

Finding: As would be established by findings on succeeding charges, there is ample evidence that Respondent has violated numerous disciplinary rules.

2. Charge: Disciplinary Rule 1-102(A)(3): A lawyer shall not engage in illegal conduct involving moral turpitude.

Finding: Respondent's client, Dugan, illegally derived from importation and distribution of controlled substances, considerable assets. Respondent conspired with Dugan to form a foreign corporation and do other illegal acts to "launder" these illegally gained assets. This conduct on the part of Respondent constituted illegal conduct of moral depravity.

3. Charge: Disciplinary Rule 1-102(A)(4): A lawyer shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation.

Finding: The plan and actions of Respondent was to defraud the U.S. Treasury out of substantial income taxes owed by Dugan derived from property he was accumulating from importation and sale of controlled substances. The entire dealings with Dugan was fraught with dishonesty, misrepresentation, and fraud.

4. Charge: Disciplinary Rule 1-102(A)(5): A lawyer shall not engage in conduct that is prejudicial to the administration of justice.

Finding: "Administration of justice" is the administering or direction of the right thing or the proper, lawful thing. This entire scheme Respondent was involved with was to do anything but the right or lawful act. The "bottom line" of the entire endeavor was to enable Dugan to avoid payment of income tax on his financial endeavors. The setting up of a foreign corporation in "laundering" of funds was all done in furthering of this goal.

5. Charge: Disciplinary Rule 1-102(A)(6): A lawyer shall not engage in any other conduct that adversely reflects on his fitness to practice law.

Finding: The money "laundering" scheme was adverse to the integrity of Respondent as an attorney. It constituted a serious criminal violation.

6. Charge: Integration Rule of The Florida Bar, article XI, Rule 11.02(3)(a): An attorney shall not engage in any act contrary to honesty, justice, or good morals.

Finding: Respondent participated in schemes to hide assets of his client Dugan so he could evade payment of income taxes and not be required to forfeit certain assets because of his illegal business deals.

III. RECOMMENDATIONS AS TO GUILT.

I recommend that Respondent, MELVIN R. HORNE, be found guilty of violation of all charges leveled against him as set forth in Paragraph Seven of the Complaint.

IV. RECOMMENDATION AS TO DISCIPLINARY MEASURES TO BE APPLIED

I recommend that the Respondent be disbarred from the practice of law in Florida and that Respondent pay costs in these proceedings.

V. PERSONAL HISTORY AND PAST DISCIPLINARY RECORD

Age: 40 years old
Admitted to the Bar: 1972
Prior Discipline: None presented before the Referee.
Other Personal Data: Respondent is married with three children of tender years.

VI. STATEMENT OF COSTS AND MANNER IN WHICH COSTS SHOULD BE TAXED

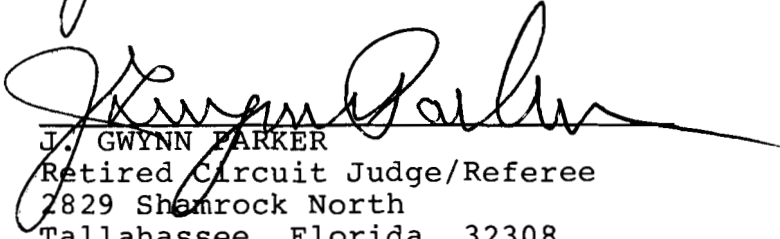
I find the following costs were reasonably incurred by The Florida Bar:

Referee Level	
1. Administrative Costs	\$150.00
2. Court Reporter's Fees	276.50
3. Bar Counsel Travel	000.00
TOTAL	<u>\$426.50</u>

It is recommended that such costs be charged to Respondent and that interest at the statutory rate shall accrue and be payable beginning 30 days after the judgment in this case becomes final

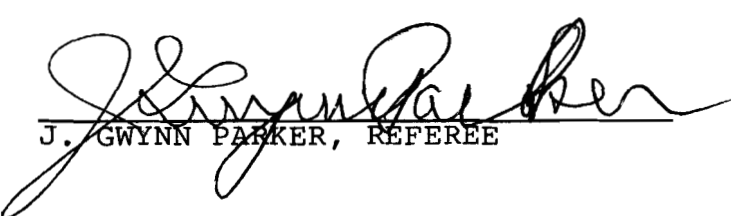
unless a waiver is granted by the Board of Governors of The Florida Bar.

Dated this 22 day of Jan, 1988.


J. GWYNN PARKER
Retired Circuit Judge/Referee
2829 Shamrock North
Tallahassee, Florida 32308
(904) 893-3525

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original of the foregoing Report of Referee has been mailed to SID J. WHITE, Clerk of the Supreme Court of Florida, Supreme Court Building, Tallahassee, Florida 32301, and that confidential copies were mailed by regular U.S. Mail to JOHN T. BERRY, Staff Counsel, The Florida Bar, 600 Apalachee Parkway, Tallahassee, Florida 32301; JAMES N. WATSON, JR., Bar Counsel, The Florida Bar, 600 Apalachee Parkway, Tallahassee, Florida 32301; and MALLORY E. HORNE, ESQUIRE, Counsel for Respondent, at his record Bar address of Route 1, Box 942, Tallahassee, Florida 32312, this 22 day of Jan, 1988.


J. GWYNN PARKER, REFEREE