

Supreme Court of Florida

No. 71,147

THE FLORIDA BAR, Complainant

vs.

WALTER BENJAMIN KYLE, Respondent.

[December 10, 1987]

PER CURIAM

This case is before the Court for consideration of the petition of Walter Benjamin Kyle for leave to resign from The Florida Bar. The petition states that leave is sought to resign permanently. The Florida Bar does not oppose the petition but asks that the resignation be subject to certain conditions.

The petition for leave to resign sets forth facts forming the grounds for disciplinary action in several pending proceedings in which probable cause was found and proceedings were commenced before a referee. In Supreme Court case nos. 63,633, 64,244, 64,245, 66,984, 67,621, 69,163, and 70,321, disciplinary proceedings have progressed through to the final hearing stage before the referee. In each of the cases, the facts set forth in the petition to resign indicate one or more violations of the former Code of Professional Responsibility involving neglect of entrusted legal matters, failure to carry out contracts for professional services, causing damage or prejudice to a client's interests, accepting employment beyond one's level of competence, or conduct adversely reflecting on fitness to practice law.

We find that it is appropriate to grant the petition for leave to resign permanently from The Florida Bar.

The petitioning attorney agrees that his resignation should be permitted subject to the condition that restitution be made to various clients harmed by his misconduct. He agrees that the amounts of restitution to be made to clients, as well as the amounts of costs to be awarded to The Florida Bar, may be determined by a referee specially appointed for this purpose. The Florida Bar asks that jurisdiction be reserved for the appointment of a referee to determine the questions of restitution and costs. Although rule 3-7.11(d) of the Rules Regulating The Florida Bar provides that resignation, if accepted by the Court, "shall serve to dismiss all pending disciplinary cases," and although a referee has already conducted proceedings on the above-referenced cases so that the Bar has had an opportunity to resolve the issues of restitution and costs by pursuing those cases to final report, based on the agreement of the parties we grant the request to allow the issues of restitution and costs to be the subjects of further inquiry by a referee.

Subject to the foregoing reservation of jurisdiction to determine the issues of restitution and costs, we grant the petition to resign permanently from The Florida Bar. The name of Walter Benjamin Kyle shall be stricken from the roll of attorneys admitted to the practice of law in the State of Florida.

It is so ordered.

McDONALD, C.J., and OVERTON, EHRLICH, SHAW, BARKETT, GRIMES
and KOGAN, JJ., Concur

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION AND, IF
FILED, DETERMINED. THE FILING OF A MOTION FOR REHEARING SHALL
NOT ALTER THE EFFECTIVE DATE OF THIS RESIGNATION.

Original Proceeding - The Florida Bar

John F. Harkness, Jr., Executive Director; John T. Berry, Staff Counsel, and Susan V. Bloemendaal, Bar Counsel, Tallahassee, Florida,

for Complainant

Walter Benjamin Kyle, in proper person, Jacksonville, Florida,

for Respondent