

Supreme Court of Florida

No. 71,465

THE FLORIDA BAR, Complainant,

vs.

DON R. ALLEN, Respondent.

[January 21, 1988]

PER CURIAM.

This disciplinary proceeding is before the Court upon the respondent's conditional guilty plea for consent judgment and The Florida Bar's motion that the plea be accepted and the agreed discipline imposed. This type of proceeding is governed by rule 3-7.8 of the Rules Regulating The Florida Bar.

Respondent admits that based on nolo contendere pleas he has twice been adjudicated guilty of driving under the influence of alcohol and that he was placed on probation. Respondent admits further that he was held in contempt of court and incarcerated for arriving late for a client's court appearance and for appearing in court under the influence of alcohol. The latter incident also resulted in incarceration for violation of the conditions of probation imposed upon him in connection with his convictions for driving under the influence. Respondent admits that he violated the former Integration Rule of The Florida Bar, article XI, rule 11.02(3)(b)(misconduct constituting a criminal offense), and the former Code of Professional Responsibility, Disciplinary Rule 1-102(A)(5)(conduct prejudicial to the administration of justice).

Respondent agrees to accept as discipline a public reprimand, to be administered through a personal appearance before the Board of Governors of The Florida Bar, and probation for a period of three years and thereafter under the following conditions: (A) Respondent shall be evaluated by and participate in and abide by any and all recommendations of treatment promulgated by Florida Lawyers Assistance, Inc., concerning respondent's alcoholism. Respondent shall not be released from probation until Florida Lawyers Assistance, Inc., certifies to The Florida Bar that respondent's alcoholism is under control and will not impair his ability to practice law. (B) Respondent shall refrain from the consumption of alcohol. (C) Respondent shall abide by all conditions of probation in the criminal case.

Under rule 3-5.1(c) of the Rules Regulating The Florida Bar, failure to observe the conditions of probation, or a finding of probable cause on a charge of professional misconduct during probation, constitutes grounds for termination of probation. An order of contempt may be sought for violation of the terms of probation under rule 3-5.1(c). Respondent acknowledges that he has been advised of the foregoing provisions.

Respondent's guilty plea is accepted and the consent judgment is hereby imposed. Respondent shall appear before the Board of Governors to receive a public reprimand. He is hereby placed on probation under the terms and conditions set forth above.

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.

Original Proceeding - The Florida Bar

John F. Harkness, Jr., Executive Director and John T. Berry,
Staff Counsel, Tallahassee, Florida; and Jacquelyn P. Needelman,
Bar Counsel, Fort Lauderdale, Florida,

for Complainant

Don R. Allen, in proper person, Fort Lauderdale, Florida,

for Respondent