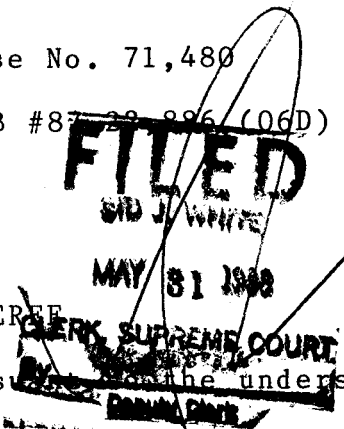


IN THE SUPREME COURT OF FLORIDA

-----X
 THE FLORIDA BAR, :
 Complainant, :
 vs :
 EDWARD L. PEDRERO, :
 Respondent. :
 -----X

: Case No. 71,480
 : TFB #87-22-886 (06D)



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: April 4, 5, 1988.

For the Florida Bar: Richard A. Greenberg, Esquire.

For the Respondent: Michael L. Kinney, Esquire

II. FINDINGS OF FACT: The Bar's complaint is not broken down into counts, rather it sets forth the specifications of the charges in paragraphs two through twenty-eight, thereof.

At the outset, the referee finds that there is no evidence to support paragraph three relating to the Respondent supplying his alleged co-conspirator with illegal drugs. Accordingly, I recommend that Respondent be found not guilty as to the specifications set forth in said paragraph three.

Secondly, there is no evidence, and the bar so concedes, to support the specifications set forth in paragraph sixteen of the complaint relating to the charging of excess fees. Accordingly, I recommend the Respondent be found not guilty of the specifications set forth in paragraph sixteen.

Thirdly, with respect to the specifications set

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set forth in the complaint, and after considering all the pleadings and evidence before me, pertinent portions of which I comment upon below, I find as follows:

In approximately August, 1983, Respondent met Daryl John Christian at DACCO in Tampa, Florida.

In approximately January, 1984, Mr. Christian left DACCO and contacted the Respondent. The Respondent provided Mr. Christian with the birth certificate of Nelson Lee Burchfield, (Respondent's Composite Exhibit 4 (c), report of Dr. Hector Corzo, dated May 20, 1986.

At Respondent's direction, Mr. Christian assumed the identity of Nelson Lee Burchfield until Mr. Christian's arrest by Federal authorities on March 19, 1986.

In approximately March, 1985, Respondent gave Mr. Christian the birth certificate of John Fernandez, a friend or acquaintance of Respondent. Mr. Christian used the identity of John Fernandez to acquire credit cards in that name. Respondent was aware of the fact that Mr. Christian intended to use the birth certificate of John Fernandez for the aforementioned purpose.

Sometime after March, 1985, Respondent gave Mr. Christian money with which to open bank accounts in the Tampa Bay area under the name of John Fernandez. One bank in which such an account was opened was the Landmark Bank, now C & S Bank, in St. Petersburg. This information was confirmed by Special Agent Walter Tuller in his meeting with Rocco Ramirez from C & S Bank. Mr. Christian then used the credit cards obtained in the name of John Fernandez to purchase merchandise and to receive cash advances. Mr. Christian shared these fraudulently obtained items with the Respondent. The Respondent admitted this conduct to Agent Tuller in April, 1986.

Mr. Christian also used the identity of John

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Fernandez to obtain a U.S. passport. In approximately May or June, 1985, Mr. Christian used the aforementioned passport to travel to Amsterdam at the direction of Respondent to purchase a quantity of diamonds and hashish. Upon his return to the United States, Mr. Christian gave Respondent the aforementioned diamonds and approximately 10 grams of the hashish.

On May 23, 1985, Respondent was admitted to the Florida Bar. In approximately May, 1985, Respondent gave Mr. Christian a Social Security card in the name of John Richmond Melton. Mr. Christian then acquired credit cards in the name of John Richmond Melton and used these cards to purchase merchandise and receive cash advances. Mr. Christian shared these ill-gotten gains with the Respondent.

In approximately August, 1985, Mr. Christian again traveled to Amsterdam to purchase drugs. While in Amsterdam, Mr. Christian met Peter Corby, an Australian. Mr. Corby sold Mr. Christian some heroin which was then smuggled back into the United States where Mr. Corby delivered five to ten grams of the heroin to Respondent.

In late July, 1985, Respondent began to represent David G. Pavlick on the charges of driving with a suspended license and driving under the influence of alcohol.

At the time of his arrest, David Pavlick was using the driver's license of his twin brother, Douglas.

In August, 1985, David and Douglas Pavlick went to the Clearwater courthouse to be fingerprinted to clear up the confusion in their identities caused by David's use of Douglas' driver's license. The Respondent used this opportunity to obtain the fingerprints of Douglas Pavlick which he then used to obtain the identification of Douglas Pavlick. This identification was given to Mr. Christian by

the Respondent for the purpose of Mr. Christian obtaining credit cards and bank accounts in the name of Douglas Pavlick.

The Respondent attempted to cover his tracks for the aforementioned transaction by filing a report with the Pinellas County Sheriff's Department, (Respondent's Composite Exhibit Number 4 (16), Report from Pinellas County Sheriff's Department, dated June 5, 1986.) On page two of the aforementioned exhibit, the Respondent is reported to have stated that sometime after David Pavlick's trial date, Daryl Christian broke into his car and stole the Pavlick file. In his affidavit submitted to the referee and in his testimony, however, the Respondent stated that both Daryl Christian and Mr. Corby took the file from the trunk of his car. In addition, Respondent told the referee that his trunk was unlocked and not that his car was broken into. The Respondent did not report this alleged theft until two months after Mr. Christian had implicated the Respondent to the Secret Service and over nine months after the alleged theft.

The Respondent admitted before the referee to using a fraudulently obtained credit card to purchase merchandise from a clothing store in Tampa, Florida. Agent Tuller testified that the card used by Respondent was in the name of John Melton. The Respondent also admitted to purchasing merchandise from one of the Iranian men whom he later claims to have been threatening him.

On February 24, 1986, Respondent purchased \$4,500 worth of Citicorp Travelers Cheques at the Freedom Savings office in Largo, Florida. While at the Freedom Savings, the Respondent refused to use the bank's pen but rather used a pen with erasable ink which he had brought with him to the bank. It appears that the Respondent then erased

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his name from the travelers cheques and, in a shaky hand, wrote his name apparently to make it appear as if the cheques had been forged. The Respondent did this with \$800 worth of the cheques. The remaining \$3,700 was given to Mr. Christian for Mr. Christian to take to Amsterdam to purchase narcotics. Mr. Christian used the name John Fernandez on the travelers cheques.

On February 25, 1986, Respondent cashed \$800 worth of the travelers cheques that he had kept in his own name.

On February 26, 1986, Respondent reported to the bank that the balance of the \$4,500 in travelers cheques were missing. At the time Respondent made this false report, he knew that the travelers cheques were in the possession of Daryl Christian.

On February 27, 1986, Respondent called Citicorp and falsely reported the cheques as being missing. Subsequently, the Respondent received a full refund of \$4,500 from Citicorp.

On April 10, 1986, after his meeting with the Secret Service agents and with the United States attorney's office, Respondent made restitution to Citicorp for the \$4,500.

The referee finds that the affidavit of Daryl John Christian is supported by the independent investigation conducted by the Special Agent Walter Tuller. In addition, the Respondent admitted to engaging in the conduct set forth in Mr. Christian's affidavit when the Respondent met with the Secret Service on April 1, 1986.

Special Agent Tuller testified Respondent's fingerprints and handwriting were found upon several false credit card applications. The Respondent admitted to Agent Tuller that he filled out these applications.

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In response, the Respondent has submitted an affidavit in lieu of his testimony, with the referee's permission, but the Bar was given full opportunity to cross-examine the Respondent within the scope of the matters set forth in the affidavit.

The affidavit provides credence to the findings made in the psychological examinations of Respondent that to him, "fantasy and reality are often seen as the same," (Respondent's Composite Exhibit Number 4 (7), report of Dr. Walter E. Afield, dated October 2nd, 1987.

I find the Respondent's affidavit to be incredible in almost every relevant detail. Moreover, I am of the view, and so find, that it is replete with intentional falsehoods calculated to mislead, if not to deceive, the referee. Accordingly, I reject the affidavit and, indeed, consider it more damning than exculpatory.

The most damning affirmative evidence of all, however, consists of the tapes which surreptitiously recorded the conversations between the Respondent's co-conspirator, Mr. Christian, and the Respondent in March, 1986. The tapes clearly show that the Respondent was a knowledgeable, willing and active participant in the unlawful activities of Daryl Christian. There is no sign of any coercion, duress or intimidation of the Respondent by Daryl Christian, nor is there any sign of fear in the Respondent's voice; further giving the lie to much of Respondent's affidavit. On the contrary, it appears that the Respondent was fully in charge of the situation and was already making plans to establish his own defense in this matter and to assist Daryl Christian in establishing his.

CONCLUSIONS: In view of the foregoing, I recommend that the Respondent be found guilty of all the specifications set forth and embraced within paragraphs

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two, four through fifteen, seventeen and eighteen, and twenty through twenty-eight of the complaint.

It follows, therefore, and I so recommend, that Respondent is guilty of the following violations of the rules of discipline: ^{(1) M/C} ~~one~~, DR 1-102 (A) (3), relating to engaging in illegal conduct involving moral turpitude.

2. DR 1-102 (A) (4), relating to engaging in conduct involving dishonesty, fraud, deceit or misrepresentation.

3. DR 1-102 (A) (6), relating to engaging in any "other" conduct adversely reflecting fitness to practice law. As noted, I have found Respondent's aforementioned affidavit to be incredible and that he intentionally sought to deceive the referee. This conduct clearly adversely reflects on his fitness to practice law.

RECOMMENDED DISCIPLINARY MEASURES:

In making the following recommendations, I have taken into account what I perceive to be serious mental problems of the Respondent. I am persuaded, indeed, that he is borderline schizophrenic, which is substantiated by the reports of Doctors Afield (Respondent's Exhibit 4 (7)), and Corzo (Respondent's Exhibit 4 (6)). Additionally, it is my own evaluation, based on experience, in observing the Respondent during the proceedings and by analyzing the Respondent's Affidavit submitted in lieu of testimony, (Respondent's Exhibit 2), that clearly, he suffers from serious psychiatric and emotional problems, although not incompetent.

In addition to the foregoing considerations and prior to recommending the following discipline, I considered the age of Respondent, the date of his admission to the Bar, the absence of prior disciplinary proceedings, and, most importantly, the fact that he is presently

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undergoing, and expressed an intention to continue, psychiatric treatment and counselling.

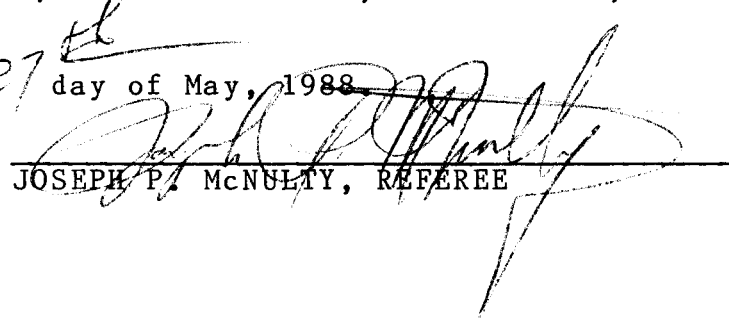
If I were of the belief that the Respondent fully was ~~at~~ responsible disposition and not suffering from the psychiatric and emotional problems aforementioned, I would have no hesitancy in recommending disbarment under the facts of this case. In view of the foregoing observations, however, I instead recommend that he be suspended from the practice of law for a period of three years, retroactive to the date of the temporary suspension Order heretofore entered herein on July 8, 1987, and thereafter until Respondent shall prove that he has continued psychiatric counseling and treatment and has reached that degree of emotional and mental rehabilitation which would permit him responsibly to assume the high responsibilities of a member of the Florida Bar.

I find, further, that all costs of this proceeding be charged to the Respondent; and, upon submission of an affidavit of costs reasonably incurred by the Florida Bar, will enter an order recommending a specific amount to be so taxed.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing referee's report has been furnished by mail to Richard A. Greenberg, Staff Counsel, the Florida Bar, Suite C-49, Tampa Airport Marriott Hotel, Tampa, Florida 33607; Michael L. Kinney, Esquire, Counsel for Respondent, 208 South MacDill Avenue, Tampa, Florida 33609; and John T. Berry, Esquire, Staff Counsel, the Florida Bar, Tallahassee, Florida 32301-8226.

DATED the 27th day of May, 1988


JOSEPH P. McNULTY, REFEREE

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