

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,)
Complainant,)
v.)
LEO B. WEST,)
Respondent.)
_____ /

The Florida Bar File
No. 88-71,391(MFC-11 3")

Supreme Court Case
No. 72424
FILED
SID J. WHITE

MAR 20 1989

CLERK, SUPREME COUR

REPORT OF REFEREE by _____

Deputy Clerk

I. SUMMARY OF PROCEEDINGS. Pursuant to the undersigned being duly appointed as Referee for the Supreme Court of Florida to conduct disciplinary proceedings pursuant to Rules 3-7.2 and 3-7.9 of The Rules Regulating The Florida Bar, a Final Hearing was held on October 14, 1988 in Pompano Beach, Broward County, Florida.

All of the pleadings, notices, motions, orders, transcripts and exhibits are forwarded with this report and the foregoing constitutes the record of this case.

Louis Thaler appeared as counsel for The Florida Bar. James M. Stark appeared as counsel for the Respondent.

On May 10, 1988, The Florida Bar filed a Notice of Determination or Judgment of Guilt against Respondent.

On or about June 20, 1-985, Respondent was named in a four count felony information filed in the Circuit court of the 11th Judicial Circuit of Florida, County of Dade, in case number 85-15266 A, State v. Leo West.

The information alleged, inter alia, Respondent's involvement in committing offenses against the State of Florida, to wit; possession of a controlled substance (cocaine), possession or delivery without consideration of not more than (20) grams of cannabis, both in violation of Florida Statute 893.13, and battery in violation of Florida Statute 784.03.

On or about August 20, 1987, Respondent pled guilty to possession of a controlled substance (cocaine) in violation of Florida Statute 893.13.

Respondent was placed on probation for a period of three (3) years with a special condition of probation that Respondent successfully complete a drug treatment program.

Further, Respondent was "fined" \$5,000, which was to be paid to a Drug Rehabilitation Center. Adjudication was withheld.

On May 25, 1988, Respondent filed a Petition for Entry of Consent Judgment and Petition to Modify or Terminate Suspension.

The Florida Bar filed a response to the Petition to Modify on June 8, 1988 and did not accept the Petition for Entry of Consent Judgment on August 4, 1988.

The Petition to Modify or Terminate Suspension was denied by the Supreme Court of Florida on September 2, 1988.

The Respondent was suspended from the practice of law for three years. The period of suspension imposed commenced to run on August 20, 1987.

This Referee was appointed to consider Respondent's Petition to Modify or Terminate Suspension and hearing was set for October 14, 1988.

11. FINDINGS OF FACT. Respondent and counsel personally appeared at the final hearing. Respondent testified and presented the testimony of twelve (12) additional witnesses. The Florida Bar appeared through counsel and presented two (2) witnesses.

The Referee accepted in evidence, by stipulation the following: 1) the outline of facts contained in the Notice of Determination of Judgment of Guilt; additionally admitted on the transcripts of the plea colloquy before Judge Friedman on Tuesday, May 5, 1987, case number 85-15266 A, 11th Judicial Circuit of Florida, 2) affidavit for the search warrant of Respondent's residence, 3) transcripts of depositions of Tanya

Solis taken August 15, 1985, and the deposition of Terry Socci, taken September 13, 1985, 4) the deposition of Laura Lockett taken September 13, 1985, 5) deposition of Sherry Quinones taken October 2, 1985, 6) deposition of Anna Wood taken September 12, 1985, 7) a composite of photographs and a statement of Laura Lockett taken May 30, 1985.

After considering all of the pleadings and evidence before me, I find:

1. That Respondent, is and at all times herein after mentioned, was a member of The Florida Bar, subject to the jurisdiction and disciplinary rules of the Supreme Court of Florida and the integration Rule of The Florida Bar.

2, That on or about June 20, 1985, the Respondent was named in a four (4) count information filed in the Circuit Court of the 11th Judicial Circuit of Florida, County of Dade, in case number 85-15266 A.

The information alleged inter alia, Respondent's involvement in committing offenses against the State of Florida, to wit; possession of a controlled substance (cocaine), possession or delivery without consideration of not more than twenty (20) grams of cannabis, both in violation of Florida Statute 893.13 and battery in violation of Florida Statute 784.03.

3. That on or about August 20, 1987, Respondent pled guilty to possession of a controlled substance (cocaine) in violation of Florida Statute 893.13.

Respondent was placed on probation for a period of three (3) years with a special condition of probation that Respondent successfully complete a drug treatment program.

Further, Respondent was fined \$5,000 which was to be paid to a drug rehabilitation center, and adjudication was withheld.

4. That the Respondent abused alcohol, cannabis and cocaine, and provided alcohol, cannabis, cocaine and money to underage females in return for sexual acts with himself and others.

111. RECOMMENDATION AS TO GUILT: Based on clear and convincing evidence, I recommended that Respondent be found guilty of violating the Code of Professional Responsibility and Integration Rule of The Florida Bar as charged in The Florida Bar's Notice of Determination or Judgment of Guilt.

Specifically, Respondent should be found guilty of violating the following Disciplinary Rules, 1-102 (A)(3): (Engaging in illegal conduct involving moral turpitude); **1-102(A)(6)**: (Engaging in other conduct adversely reflecting on his fitness to practice law), of the Code of Professional Responsibility.

Respondent acknowledges, by virtue of his criminal actions, he is guilty of violation of the Code of Professional Responsibility and Integration Rule of The Florida Bar.

Based upon Respondent's admissions and other evidence, I further recommend that Respondent be found guilty of violating article XI, Rule 11.02(3) (a), and (b) of the Integration Rule of The Florida Bar (commission of an act contrary to honesty, justice, and good morals and commission of a crime).

Further, I recommend that Respondent's Petition to Modify or Terminate Suspension be granted as more fully set forth in the recommendation as to disciplinary measures for the reasons given therein.

IV. PERSONAL HISTORY AND PAST DISCIPLINARY RECORD

He has a supportive family, clients and friends, and has presented substantial evidence in mitigation of egregious, reprehensible conduct.

I believe his lifestyle has changed and he has taken appropriate steps to curb his drug and alcohol dependency.

The Respondent has no prior disciplinary history. No clients were injured by his misconduct.

V. RECOMMENDATIONS AS TO DISCIPLINARY MEASURES: The Florida Bar's official position with respect to discipline is that Respondent be suspended from The Florida Bar for a period of more than 90 days.

Respondent has cooperated with The Florida Bar and has readily admitted his wrongdoing. He has notified his clients of his suspension. Prior to being suspended, Respondent has completed a drug treatment program and continues with alcohol counseling.

I recommend an eighteen (18) month suspension from the practice of law deemed to have commenced to run from August 20, 1987, said suspension shall be followed by a two (2) year period of probation.

The conditions of probation which are binding on the Respondent not only upon reinstatement, but also during the term of the suspension are as follows:

1. Respondent must comply with all the conditions of probation imposed upon him in the criminal case.

2. The Respondent shall be monitored by the Florida Lawyer's Assistance, Inc. and must comply with all its recommendations, participate in the program prescribed by that organization for the control and correction of his substance abuse problem.

3. Respondent shall attend alternate weekly Alcoholics Anonymous and Narcotics Anonymous sessions until Florida Lawyer's Assistance, Incorporated deems it unnecessary.

4. Respondent must abstain from the use of alcohol and illegal drugs.

5. Respondent shall be responsible for the costs of the program of evaluation, counseling and any recommended testing arrangement for and provided to him by Florida Lawyer's Assistance, Inc.

VI. STATEMENT OF COSTS AND MANNER IN WHICH COSTS SHOULD BE TAXED. I find the following costs were reasonably incurred by The Florida Bar and should be assessed against the Respondent to be payable within 30 days after the Supreme Court's acceptance of this report:


Court Reporter Costs for Final Hearing held on
October 14, 1988 and January 30, 1989,..... \$596.70
Administrative Costs for Referee level \$150.00

Bar Counsel Travel Costs to Final Hearing
at Broward County Courthouse..... \$ 35.80

TOTAL \$782.50

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing document was sent to James Stark, Esq., Counsel for Respondent, 524 South Andrews Avenue, Suite 201, North Ft. Lauderdale, Florida 33301; Louis Thaler, Bar Counsel, New World Tower, Suite 2802, 100 N. Biscayne Blvd., Miami, Florida 33132; Paul A. Gross, Branch Staff Counsel, The Florida Bar, 444 Brickell Avenue, Suite 211, Miami, Florida 33131; and John T. Berry, Staff Counsel, The Florida Bar, Tallahassee, Florida 32301 this 16 day of March, 1989.



BRIAN KAY, REFEREE'
Broward' County Courthouse
2301 W. Sample Road
Pompano Beach, Florida