

FILED

SID J. WHITE

MAR 3 1992

CLERK SUPREME COURT

IN THE SUPREME COURT OF FLORIDA

The Florida Bar,
Complainant,
vs.
Alan K. Marcus,
Respondent.

Supreme Court Case
No. 72,505

The Florida Bar File
NO. 87-24,345(11D)

Chief Deputy Clerk

AMENDED REPORT OF REFEREE

I. SUMMARY OF PROCEEDINGS: Pursuant to the undersigned being duly appointed as Referee for the Supreme Court of Florida to conduct the taking of additional evidence relative to the issue of mitigation. All of the transcripts are forwarded with this report and the foregoing constitutes the record of this evidentiary hearing.

The following attorneys appeared as counsel for the parties:

On behalf of The Florida Bar: ✓ Warren Jay Stamm, Esquire

On behalf of the Respondent: ✓ Louis Jepeway, Esquire
✓ John A. Weiss, Esquire

Respondent, submitted additional testimony and a cadri of other witnesses which provided a positive character, long standing rehabilitation and recovery of over three years and a strong affiliation with Narcotics Anonymous and fellow addicts needed to maintain recovery.

11. FINDINGS OF FACTS: Upon the testimony and cadri of other witnesses testimony on behalf of the Respondent the Referee finds as follows:

- (1) As previously established, there was a direct and causal link between the Respondents misconduct and his narcotic addiction to cocaine.
- (2) Respondent has established a repore and strong affiliation with Narcotics Anonymous Program over the last three years and continues this affiliation on a bi-weekly basis.
- (3) Respondent has successfully fulfilled a two year contract with the Florida Lawyers Assistance Corporation and voluntarily continues to report to his assigned monitor to date.
- (4) Respondent has shown an active and helpful role in the recover of other suffering addicts.
- (5) Respondent adequately **and** responsibly performs as an attorney in the community today.
- (6) Respondent has made full restitution to the harmed parties.

111. RECOMMENDATION AS TO THE ADDITIONAL EVIDENCE AND THE DISCIPLINARY MEASURES TO BE APPLIED:

Whereupon, the recommended disciplinary measures to imposed are as follows:

- (a) An eighteen month suspension effective upon the date so ordered by the Supreme Court.
- (b) Respondent shall be placed on probation for a period of three (3) years from the date so ordered by the Supreme Court. During this period of probation, Respondent shall enroll in and successfully complete a Florida Lawyers Assistance, Inc. (FLA) or a Florida Lawyers Assistance, Inc. sponsored rehabilitation program. Proof of successful completion of said program shall be provided to The Florida Bar by Respondent at the conclusion of the three (3) year probationary period.

V. STATEMENT OF COSTS AND RECOMMENDATION AS TO THE MANNER IN WHICH COSTS SHOULD BE TAXED:

I find that the fallowing were reasonably incurred by The Florida Bar as costs in their proceedings and should be assessed against Respondent:

FILED

SID J. WHITE

JAN 17 1992

CLERK, SUPREME COURT

By _____
Chief Deputy Clerk

IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR,)
Complainant,)
vs.)
ALAN K. MARCUS,)
Respondent.)
_____)

Supreme Court Case
No. 72,505

The Florida Bar File
No. 87-24,345 (11D)

REPORT OF REFEREE

I. SUMMARY OF PROCEEDINGS: Pursuant to the undersigned being duly appointed as Referee for the Supreme Court of Florida to conduct the taking of **additional** evidence relative to the issue of mitigation. All of the transcripts are forwarded with this report and the foregoing constitutes the **record** of this evidentiary hearing.

The following attorneys appeared as counsel for the parties:

On behalf of The Florida Bar: Warren J. Stamm, Esq.
On behalf of the Respondent: Louis Jepeway, Esq.
John A. Weiss, Esq.

Respondent submitted additional testimony and a cadre of other witnesses which provided a positive character, long standing rehabilitation and **recovery** of over three years and a strong affiliation with Narcotics Anonymous and fellow addicts needed to maintain recovery.

11. FINDINGS OF FACTS: Upon the testimony and cadre of other witnesses testimony on behalf of the Respondent the Referee finds as follows:

- (1) As previously established, there was a direct and causal link between the Respondents misconduct and his narcotic addiction to cocaine.
- (2) Respondent has established a repore and strong affiliation with Narcotics Anonymous Program over the last three years and continues this affiliation on a bi-weekly basis.
- (3) Respondent has **successfully** fulfilled a two year contract with the Florida Lawyers Assistance Corporation and voluntarily continues to report to his assigned monitor to date.
- (4) Respondent has shown an active and helpful role in the recovery of other suffering addicts.
- (5) Respondent adequately **and** responsibly performs as an attorney in the community today.
- (6) Respondent has made full restitution to the harmed parties.

III. RECOMMENDATION AS **TO THE** ADDITIONAL EVIDENCE AND THE DISCIPLINARY MEASURES TO BE APPLIED:

Whereupon, the recommended disciplinary measures to be imposed are as follows:

- (a) An eighteen month period of suspension of the Respondent from the practice of law.
- (b) A ten year probation period with participation in alcohol or drug abuse programs.

V. STATEMENT OF COSTS AND RECOMMENDATION **AS TO THE MANNER IN WHICH** COSTS **SHOULD** BE TAXED:

I find that the following were reasonably incurred by The Florida Bar as costs in there proceedings and should be assessed against Respondent:

Administrative Costs:

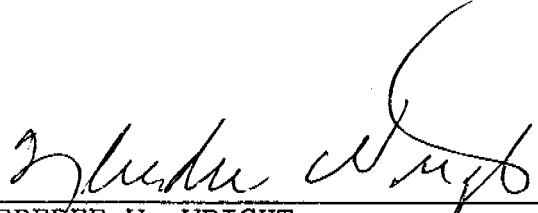
Referee Level

Cost of Audit: Investigation

TOTAL :

It is recommended that the foregoing costs be assessed against Respondent. It is further recommended that execution issue with interest at a rate of twelve percent (12%) to accrue on all costs not paid within 30 days of entry of the Supreme Court's final order, unless the time for payment is extended by the Board of Governors of The Florida Bar.

DATED this 23rd day of July, 1990.



ZEBEDEE W. WRIGHT
Referee

Copies furnished to:

Warren 3. Stamm, Esq.
Louis Jepeway, Esq.
John A. Weiss, Esq.

TRUE COPY