

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,

Complainant,

vs.

PAUL S. CARR,

Respondent.

Case No.: 72,576

FILED
SID E WHITE

MAY 29 1989

CLERK, SUPREME COURT

By _____
Deputy Clerk

REPORT OF REFEREE

I. Summary of Proceedings: Pursuant to the undersigned being duly appointed as referee to conduct disciplinary proceedings herein according to article XI of the Integration Rule of The Florida Bar and Rule 3-7.5, Rules of Discipline, a final hearing was held on February 8, 1989. The enclosed pleadings, orders, transcripts and exhibits are forwarded to the Supreme Court of Florida with this report, and constitute the record in this case.

The following attorneys appeared as counsel for the parties:

For The Florida Bar: Richard Greenberg, Esquire

For The Respondent: Paul S. Carr, Esquire

II. Findings of Fact:

Tony Myers was a second time DUI client of the Respondent, Paul Carr. Myers second arrest was October 25, 1985. This case went to trial on 29 April 1986, at which time Tony Myers and two of his witnesses, Rick Razick and Scott Gordon, committed perjury. (They were arrested and pled guilty to perjury charges).

The Respondent, Paul Carr, was then charged criminally with basically the same allegation as contained in this complaint. These charges were dismissed by the trial judge (Honorable William Graybill, Circuit Judge) based on "overreacting" by the Hillsborough State Attorney's Office in obtaining the testimony of Myers, Gordon and Razick, the three primary witnesses in this cause.

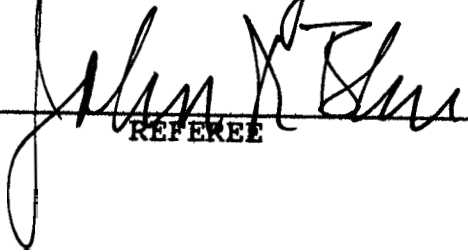
It is clear that the DUI trial in which Paul Carr represented Tony Myers contained perjured testimony by Myers, Gordon and Razick (Myers was convicted anyway). It also appears that the perjured testimony was agreed among these three individuals without the knowledge of the Respondent.

What is not clear is whether the Respondent should have known that perjury was occurring in a case he was trying. Without this clarity, the hearing officer has no choice but to find that the charges have not been proved by clear and convincing evidence.

III. Recommendation as to Whether or Not the Respondent Should be Found Guilty: I recommend that the Respondent be found not guilty of all violations of the Code of Professional Responsibility as alleged in the complaint.

V. Statement of Costs and Manner in Which Costs Should be Taxed: I find that each party shall bear their own costs incurred herein.

Dated this 19th day of May, 1989.



REFEREE

Copies furnished to:

Paul S. Carr, Attorney for Respondent
John T. Berry, Staff Counsel, The Florida Bar
Richard Greenberg, Attorney for Complainant