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CLERK, SUPREME COURT

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IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR,
Complainant,
vs.
LOUIS C. CORBIN,
Respondent.

Case No. 77,082

TFB File No. 91-00678-04A

_____ /

ANSWER BRIEF

JAMES N. WATSON, JR.
Bar Counsel, The Florida Bar
650 Apalachee Parkway
Tallahassee, Florida 32399-2300
(904) 561-5600
Attorney Number 0144587

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CASES CITED

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The Florida Bar v. Scott
566 So. 2d 765, 767 (Fla. 1990)

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The Florida Bar In Re: Sickmen
523 So. 2d 154, 155 (Fla. 1988)

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OTHER AUTHORITIES CITED

Rule 3-7.6(c)(5), Rules Regulating The Florida Bar

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Rule 3-7.9(i), Rules Regulating The Florida Bar

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PRELIMINARY STATEMENT

Appellant, Louis C. Corbin, will be referred to as Respondent throughout this brief. Appellee, The Florida Bar, will be referred to as The Florida Bar.

References to the Referee's Report will be designated by (RR-____). References to the Respondent's Initial Brief will be designated by (IB-____).

STATEMENT OF THE CASE AND FACTS

This case is a matter of original jurisdiction before the Supreme Court of Florida pursuant to Article V, Section 15 of the Constitution of the State of Florida.

The Florida Bar has no objection to the statement of facts as set forth in Respondent's Initial Brief.

SUMMARY OF ARGUMENT

The function of the Referee in a disciplinary matter is to determine the weight and sufficiency of the evidence and, based on it, make a recommendation as to Respondent's reinstatement.

In this matter, the Referee fulfilled his obligations and made his recommendation accordingly. In his judgement, after reviewing all of the evidence first-hand, the Referee determined Respondent was fit to be readmitted with a few conditions; one of which was that Respondent submit not less than once per year to a licensed psycho-sexual counselor for interview and evaluation to demonstrate Respondent has no proclivity towards physical (sexual) involvement with minors.

ARGUMENT

The Referee, having considered all the evidence presented before him, recommended Respondent be reinstated to the practice of law as a member of The Florida Bar under the following conditions (RR-3):

- a) Two (2) year probationary period to be monitored by F.L.A., Inc. (Florida Lawyer's Assistance Program).
- b) Payment of costs of these proceedings in the sum of \$513.02.
- c) Submission not less than once per year to a licensed psycho-sexual counselor for interview and evaluation to demonstrate Respondent has no proclivity towards physical (sexual) involvement with minors. This requirement to extend for a period of five (5) years after reinstatement.

As Respondent's Initial Brief noted, the only issue brought before this Court is in regard to the third condition (IB-6).

Respondent, in arguing the illegality of the third condition, asserts that even The Florida Bar agreed to deleting this third condition when Respondent moved for a rehearing before the Referee to either rehear the matter as to the third condition, or to have it stricken from the Referee's Report (IB-13). Although Respondent is correct that the staff counsel for The Florida Bar agreed to the deletion of the third condition, it is the Board of Governor's position that the Referee's recommendation should be followed. It is the

Referee's responsibility to hold a hearing, draw conclusions, and make a recommendation as to whether Respondent is fit to resume the practice of law. Rule 3-7.9(i) of the Rules Regulating The Florida Bar; The Florida Bar In Re: Sickmen, 523 So. 2d 154, 155 (Fla. 1988). Therefore, it is the Referee's conclusions and recommendations regarding Respondent's reinstatement that this Court should consider and give the greater weight to. As this Court stated in The Florida Bar v. Scott, 566 So. 2d 765, 767 (Fla. 1990):

A Referee's finding of fact will be upheld unless it is clearly erroneous or lacking evidentiary support. (Citations omitted). The burden is upon the party seeking review to demonstrate that the referee's report is 'erroneous, unlawful or unjustified.' Rule 3-7.6(c)(5) of the Rules Regulating The Florida Bar. This Court cannot reweigh the evidence or substitute its judgment for that of the trier of fact.

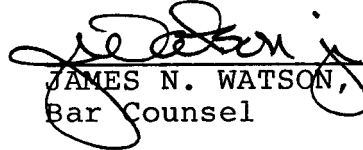
In this matter, after hearing all of the testimony presented before him and weighing all of the evidence -- including mitigating factors, letters of recommendation, and the disciplinary offenses which led to Respondent's suspension, the Referee used his judgment and made his recommendation. It is clear the Referee performed his duty as he was required to do. The Florida Bar, therefore, concurs with the Referee's recommendation.

CONCLUSION

The recommendation by the Referee should be affirmed.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Answer Brief of Complainant regarding Supreme Court Case No. 77,082; TFB File No. 91-00678-04A has been forwarded by regular U.S. mail to HENRY M. COXE, Counsel for Respondent, at his record bar address of 424 East Monroe Street, Jacksonville, Florida 32202, on this 29th day of October, 1991.



JAMES N. WATSON, JR.
Bar Counsel