

FILED

SID J. WHITE

JUN 1 1993

CLERK, SUPREME COURT

By _____
Clerk of Deputy Clerk

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,

Petitioner,

v.

BARRY D. SCHREIBER,

Respondent.

Supreme Court Case No. 80,857

The Florida Bar Case
No. 92-70,352(11B)

REPORT OF REFEREE

I. Summary of Proceedings: Pursuant to the undersigned duly appointed as Referee for the Supreme Court of Florida to conduct disciplinary proceedings as provided for by Rule 3-7.5 of the Rules Regulating The Florida Bar a final hearing was held in chambers March 31, 1993 and April 29, 1993. All of the pleadings, transcripts, notices, motions, orders and exhibits are forwarded with this report and the foregoing constitutes the record of the case.

The following attorneys appeared as counsel for the parties:

For The Florida Bar Randi Klayman Lazarus
Suite M-100, Rivergate Plaza
444 Brickell Avenue
Miami, Florida 33131

For The Respondent Barry D. Schreiber, pro se
32 Bialir Street, Number 11
Ramat Gan, Israel 52442
No appearance at final hearing.

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Address

II. Findings of Fact as to Each Item of Misconduct of which the Respondent is charged: After considering The Florida Bar's complaint, I find:

IN GENERAL

1. Respondent is and was at all times material herein a member of The Florida Bar subject to the jurisdiction and disciplinary rules of the Supreme Court of Florida.

2. That on or about January 25, 1991 while in Rose Wolowitz's home in Hallandale, Florida, the Respondent became enraged and abusive and attempted to strike Rose Wolowitz, in the face, knocking a glass from her hand and causing her personal injury.

3. That on or about February 13, 1991 while in Rose Wolowitz's home the Respondent again became enraged, lost his composure and repeatedly and intentionally hit Ms. Wolowitz about the head, face, and her back, and kicked her repeatedly in the legs after knocking her to the ground. During the beating, the Respondent verbally assaulted Ms. Wolowitz using the most vulgar of language and referenced to and about Ms. Wolowitz.

4. That as a result of Respondent's uncontrolled and repeated physical violence, Rose Wolowitz was required to call for help from the Hallandale Police Department, be attended by the City of Hallandale Fire Rescue, seek the care and attention of her family physician as well as a specialist for the treatment of her perforated ear drum, and the services of legal counsel for the purpose of obtaining a Restraining Order prohibiting the Respondent from further harassment of, injury to, or contact with Ms. Wolowitz.

5. That as a result of the February 13, 1991 incident, criminal proceedings were instituted against the Respondent for violation of Florida Statute 784.03(1) Commission of a Battery.

6. That on October 14, 1991 Respondent plead no contest to the battery charge.

7. That Respondent's sentence to the foregoing no contest plea included a Withhold of Adjudication, six months probation and \$500.00 in Court costs.

III. Recommendation as to Whether or Not the Respondent Should Be Found Guilty: As to the complaint I make the following recommendations as to guilt:

I recommend that the Respondent be found guilty of the following violation, to wit: Rule 4-8.4(b) (A lawyer shall not commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects) of the Rules of Professional Conduct.

IV. Recommendation as to disciplinary measures to be applied:

I recommend that the Respondent be suspended from the practice of law for a period of One Hundred and Twenty (120) days. Respondent must show proof of rehabilitation by successfully completing the Florida Bar examination, including the ethics portion of the exam. I also recommend the following special conditions be imposed.

1. Respondent have a psychological evaluation by a licensed clinical psychologist, Ph.D. level, that then must be submitted to the Supreme Court for their review.

2. Respondent must attend and successfully complete a program for batterers of woman, such as that is offered by the Women in Distress Program in Broward County or its equivalent in Dade County or the country of Israel where the Respondent currently resides. Proof of successful completion must be forwarded to the Florida Bar and the Supreme Court.

V. Personal history and past disciplinary record:

Age: 50
Date Admitted to Bar: March 5, 1971
Prior disciplinary record: None

VI. Statement of costs and manner in which cost should be taxed:
I find the following costs were reasonably incurred by The Florida Bar.

Administrative costs:	\$	500.00
Staff Investigator's Cost and Witness Subpoenas:		952.55
International Federal Express:		191.76
Bar Counsel travel costs:		50.24
Court reporter cost for Grievance Committee Hearing held September 14, 1992:		175.50
Court reporter cost for attendance at telephonic conference held March 4, 1993:		106.95
Court reporter cost for hearing held before Referee on March 31, 1993:		231.36
Court reporter cost for Hearing on Respondent's Request to Make Telephonic Statement:		<u>96.90</u>
T O T A L	\$	2,305.26

Dated this 26th day of May, 1993.

Kathleen A. Kearney
KATHLEEN A. KEARNEY, Referee
North Regional Courthouse
1600 West Hillsboro Boulevard
Deerfield Beach, Florida 33442

Copies to:

Randi Klayman Lazarus, Bar Counsel
Barry D. Schreiber, Respondent
John T. Berry, Staff Counsel