

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

CLERK, SUPREME COURT

By _____
Chief Deputy Clerk

THE FLORIDA BAR,
Complainant,

v.

Case No. 80,982

T. X. TEMMER,
Respondent.

REPORT OF REFEREE

I. Summary of Proceedings:

Pursuant to the undersigned being duly appointed as referee to conduct disciplinary proceedings herein according to the Rules of Discipline, hearings were held on the following dates:

March 8, 1993 2:30 p.m.
May 14, 1993 8:30 a.m.

The following attorneys appeared as counsel for the parties:

For the Florida Bar:
Joseph A. Corsmeier, Esquire

For the Respondent:
Scott K. Tozian, Esquire

II. Findings of Fact as to Each Item of Misconduct of Which the Respondent is charged:

The respondent, **Taryn X. Temmer**, does not dispute the essential factual allegations of the Bar's complaint. (TR 5-16). After considering the pleadings and evidence, pertinent portions of which are commented upon below, I find:

As to the Complaint, the respondent **Taryn X. Temmer** is guilty of violating Rule 3-4.3 (the commission by a lawyer of any act that is unlawful or contrary to honesty and justice, whether the act is committed in the course of the attorney's relations as an attorney or otherwise, whether committed within or outside the state of Florida, and whether or not the act is a felony or misdemeanor, may constitute a cause for discipline); and 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).

Ms. Temmer is an intelligent person who has used illegal substances fairly continuously since she was 16 years of age. According to her, the only time she didn't use illegal substances was during her tenure as an Assistant State Attorney. (TR 160,161). She would have one believe that her use of cocaine was the result of the dominant influence of a criminal boyfriend who was formerly her client. (TR 169). "Formerly" in this instance means by a slim margin. (TR 133).

It is significant that several persons who have Ms. Temmer's best interest at heart warned her about her remarkable relationship with this barely literate criminal man. (TR 106,107) [TFB Ex.No.4]. Eventually, her lover turned on her and filed a complaint with the Florida Bar [TFB Ex.No.1]. This complaint was eventually "withdrawn" by him, with her help, after which these lovers resumed the use of cocaine. (TR 170,171) [TFB Ex.No.3]. Her original response to the Florida Bar's Complaint included a false categorical denial of the essential allegations. (TR 144,145,166).

Ms. Temmer's competence as a practicing attorney is not an issue, except insofar as her misconduct caused an interruption to her practice.(TR 111,112) [TFB Ex.No.6]. Ms. Temmer is a classic product of the drug generation. It may be that she will forego the use of controlled substances hereafter but more so because the use of such substances has become detrimental to her legal career. (TR 47,48,157,158). Suddenly, with her professional future at stake, Ms. Temmer professes embarrassment and concern for her family and friends.

Remarkably, the sole evidence available would show that Ms. Temmer has not become drug dependent and to that extent she should be grateful (TR 22,97,98). Most persons could not have survived intact as she has done.

In conclusion, there is reason to believe that Ms. Temmer will forego the use of illegal substances in order to pursue her profession in law. Inasmuch as no clients have been significantly harmed, she should be given this opportunity.

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 or innocence:

I recommend that the respondent be found guilty of violating Rule 3-4.3 and 4-8.4(b).

IV. Recommendation as to Disciplinary Measures to be Applied:

I recommend that the respondent be suspended for a period of 91 days and thereafter until respondent shall prove

rehabilitation as provided in Rule 3-5.1(e), Rules of Discipline. The basis for this recommendation, in addition to the underlying use of drugs, is that the respondent, **Taryn X. Temmer**, was not candid with respect to the original complaint and did resume the use of cocaine for a significant time following the first complaint. I also took into consideration that Ms. Temmer sought professional assistance for her drug use. (See applicable Bar Standards for Imposing Lawyer Sanctions.)

I recommend that the respondent be placed on probation for a period of three (3) years during which time she will undergo substance abuse evaluation (including testing) and treatment as required.

V. Personal History and Past Disciplinary Record:

I considered the fact that the respondent has no prior disciplinary actions.


VI. Statement of Costs and Manner in Which Costs Should Be Taxed:

I find the following costs were reasonable incurred by The Florida Bar.

Cost incurred at the grievance committee level as reported by bar counsel (staff invest. expense)	\$ 894.00
Travel (184 mi. @\$.33/mi.)	\$ 60.72
Administrative costs (Rule 3-7.6(k)(1)(5))	\$ 500.00
Depositions of witnesses	\$ 108.00
Court reporter costs (Hearing Mar. 8, 1993)	\$ 15.00
Court reporter costs (Final hearing May 14, 1993)	\$ 923.00
Total Itemized Costs	\$2500.72

It is apparent that other costs have or may be incurred. It is recommended that all such costs and expenses together with the foregoing itemized costs be charged to the respondent.


Dated this 4th day of June, 1993.



Oliver L. Green, Jr., Referee

Certificate of Service

I hereby certify that a copy of the above report of referee has been served on Joseph A. Corsmeier, Esquire at The Florida Bar, Tampa Airport Marriott Hotel, Suite C-49, Tampa, Florida 33602, Scott K. Tozian, Esquire, Smith & Tozian, P.A., 109 N. Brush Street, Suite 150, Tampa, Florida 33602, and Staff Counsel, The Florida Bar, 650 Apalachee Parkway, Tallahassee, Florida 32399-2300 this 4th day of June, 1993.



Joy Smith, Judicial Assistant