

IN THE SUPREME COURT OF FLORIDA  
(Before a Referee)

Case No.: 94,561  
TFB File No.: 99-00425-4A

THE FLORIDA BAR,

Complainant,

V.

ROBERT P. MCKEEVER, JR.

Respondent.

**FILED**  
DEBBIE CAUSSEAU  
JAN 14 1999

CLERK, SUPREME COURT  
By \_\_\_\_\_

**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, hearing were held on March 9, 1999 and May 11, 1999.

The following attorneys appeared as counsel for the parties:

For The Florida Bar: James N. Watson, Jr.  
For The Respondent: Pro Se

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

After considering all the pleadings and evidence before me, pertinent portions of which are commented upon below, I find:

As to Count I

On April 17, 1998, the Respondent pled guilty to five (5) counts of Aggravated Child Abuse. See Complainant's Exhibit #2; see also Complainant's Exhibit #1. On May 19, 1999, he was adjudicated guilty, in the Circuit Court, Fourth Judicial Circuit, in and for Duval County, Florida, and he was sentenced to five concurrent terms of six (6) years incarceration followed by eight (8) years probation. See Complainant's Exhibits #3 & #4. The Respondent, in his Answer and Response to Request for Admissions, filed January 14, 1999, admitted to these pleas, sentences, and being a member of The Florida Bar at the time of the commission of these offenses. The Complainant moved for summary judgment as to the facts, and on March 9, 1999, the Referee granted summary judgment as to the facts, resulting in the sole remaining issue of appropriate sanction.

As to Count II

On April 17, 1998, the Respondent pled guilty to five (5) counts of Aggravated Child Abuse. See Complainant's Exhibit #2; see also Complainant's Exhibit #1. On May 19, 1999, he was adjudicated guilty, in the Circuit Court, Fourth Judicial Circuit, in and for Duval County, Florida, and he was sentenced to five concurrent terms of six (6) years incarceration followed by eight (8) years probation. See Complainant's Exhibits #3 & #4. The Respondent, in his Answer and Response to Request for Admissions, filed January 14, 1999, admitted to these pleas, sentences, and being a member of The Florida Bar at the time of the commission of these offenses. The Complainant moved for summary judgment as to the facts, and on March 9, 1999, the Referee granted summary judgment as to the facts, resulting in the sole remaining issue of appropriate sanction.

111. Recommendation as to Whether or Not the Respondent Should be Found Guilty:

As to Count I

I recommend that the Respondent be found guilty and specifically that he be found guilty on the following violation of the Rules of Discipline, to wit: Rule 3-4.3 (Misconduct and Minor Misconduct).

As to Count II

I recommend that the Respondent be found guilty and specifically that he be found guilty on the following violation of the Rules of Professional Conduct, to wit: Rule 4-8.4(b) (Misconduct – committing a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects).

IV. Recommendation as to Disciplinary Measures to be Applied:

I find that the Respondent has overcome the presumption that disbarment is the appropriate discipline for a felony conviction, and I recommend that the Respondent be suspended for an indefinite period until Respondent shall pay the costs of these proceedings and reinstatement shall be conditioned upon Respondent's civil rights being restored, as provided in Rule 3-7.2(h)(1), Rules of Discipline, and proof of rehabilitation, as provided in Rule 3-5.1(e), Rules of Discipline.

V. Personal History and Past Disciplinary Record:

After finding of guilt and prior to recommending discipline to be recommended, pursuant to Rule 3-7.6(k)(1)(D), I considered the following personal history and prior disciplinary record of the Respondent, to wit:

### Factors

- (a) **The Duty Violated:** The misconduct occurred outside the practice of law in which the Respondent violated no duty to a client or litigant. He was convicted and is serving a six-year prison term, to be followed by an eight-year term of probation. See The Florida Bar v. Helinner, 620 So. 2d 993,995-96 (Fla. 1993). The Respondent has been and is being punished. See The Florida Bar v. Corbin, 540 So. 2d 105, 106 (Fla. 1989).
- (b) **The Respondent's Mental State:** The Respondent is a military veteran who suffers from back pain. He has acknowledged his alcohol abuse problem. He was under the supervision of FLA, Inc., and two licensed psychologists for over five months prior to his incarceration. He also joined AA and attended both individual and group therapy. He was also experiencing stress in his marital relationship which resulted in a separation.
- (c) **The Actual or Potential Injury Caused by the Lawyer's Misconduct:** As stated under subsection (a), the misconduct occurred outside the practice of law and the Respondent did not violate a duty to a client or litigant.

### Aggravation

- (a) **Pattern of Misconduct/Multiple Offenses:** The Respondent's criminal offenses occurred over a period of five months with three 15-year old male children. See Complainant's Exhibit #1. However, the Respondent had had a five-year mentoring relationship with the teenagers through the Big Brothers program, and committed the offenses, as disciplinary measures, after the teens repeatedly had behavior and discipline problems, as well as repeated criminal activities. There were no allegations that the Respondent committed similar offenses previously during his relationship with the teens. In addition, the remaining 12 counts, relating to sexual misconduct, of the Amended Information were "nolle prossed." See Complainant's Exhibit #2.
- (b) **Substantial Experience in the Practice of Law:** The Respondent has been a member of The Florida Bar for a considerable period. However, these offenses occurred outside the practice of law and did not violate a duty to a client or litigant.

### Mitigation

- (a) **Absence of a Prior Disciplinary Record:** The Respondent has not been subject to prior disciplinary proceedings.
- (b) **Absence of a Dishonest or Selfish Motive:** The Respondent did not commit the offenses for self-serving purposes. He committed the offenses as disciplinary measures for the teens' behavior problems.

- (c) Personal or Emotional Problems: As stated under Factor (b), the Respondent has acknowledged his alcohol abuse problem and voluntarily sought help through FLA, Inc., psychologists, therapy, and AA. Further, he was experiencing marital problems which ended in separation after his incarceration.
- (d) Character or Reputation: The Respondent has an extensive military record. He is a Lieutenant Colonel Army Aviator and spent almost six years as a test pilot before returning to school to obtain his law degree. He graduated as an Honors and Distinguished Military Graduate, and a graduate of Flight School, Test Pilot Course, and the Command and General Staff College. After obtaining his MBA and law degree, he continued his flight career with the National Guard as an Apache and Blackhawk helicopter pilot. He has flown numerous rescue missions, including for the Volusia County wildfires in the 1980's, Hurricane Andrew in Miami, Florida, Hurricane Opal in Northwest Florida, and humanitarian relief in Honduras. He has also performed many flights, and talks, to schools to speak to children regarding drug use. Also, during a leave of absence from his law firm, he was the Executive Officer of an Apache helicopter battalion during Desert Storm. He has received the Meritorious Service Medal, the Humanitarian Service Medal, two Florida Distinguished Service Medals, and his company, while Unit Commander, was awarded the Governors Trophy signifying the best military unit in the state. He was also an adjunct professor for Embry Riddle Aeronautical University and a frequent lecturer for the Bridge the Gap program. Two witnesses also testified on the Respondent's behalf. One, who knew him since graduate school, stated that there was no question of the Respondent's moral turpitude or ethics regarding the practice of law whatsoever. The second witness, who met the Respondent in the National Guard, stated that the Respondent started as an instructional pilot and progressed to Company Commander, and, then, to being the Number One unit in the country.
- (e) Physical or Mental Disability or Impairment: The Respondent was suffering, and does suffer, from disabling back pain from a helicopter accident during his military service which fractured his spinal column. Further, as stated in subsection (c), he was suffering from an alcohol abuse problem, which he voluntarily sought help, and marital problems.
- (f) Interim Rehabilitation: As stated in subsections (c) and (e), the Respondent acknowledged he had an alcohol abuse problem and voluntarily sought help.
- (g) Imposition of Other Penalties or Sanctions: As stated under Factor (a), the Respondent was convicted and is serving a six-year prison term, to be followed by an eight-year term of probation. He has been and is being punished.
- (h) Remorse: The Respondent is genuinely remorseful for his conduct and clearly recognizes the wrongful nature of his conduct.