

IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR,

Complainant,

v.

HOWARD HUNTER ELLZEY, JR.,

Respondent.

Supreme Court Case  
No. SC-

The Florida Bar File  
No. 2019-10,081 (6D)

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**CONDITIONAL GUILTY PLEA FOR CONSENT JUDGMENT**

COMES NOW, the undersigned respondent, Howard Hunter Ellzey Jr., and files this Conditional Guilty Plea pursuant to Rule 3-7.9 of the Rules Regulating The Florida Bar, and tendered in exchange for disposition contained herein:

1. Respondent is, and at all times hereinafter mentioned was, a member of The Florida Bar, subject to the jurisdiction of the Supreme Court of Florida.

2. Respondent is acting freely and voluntarily in this matter and is not represented by counsel.

3. Respondent is not board certified by The Florida Bar in any area of practice.

4. The Sixth Judicial Circuit Grievance Committee "D" found probable cause for further disciplinary proceedings against respondent regarding The Florida Bar File No. 2019-10,081 (6D).

5. The following allegations and rules provide the basis for respondent's guilty plea and for the discipline to be imposed in this matter:

On May 26, 2018, respondent was arrested for driving under the influence and refusal to submit to testing. Respondent was involved in a single vehicle crash. Witnesses observed the crash and stated that respondent showed signs of impairment. Respondent refused to complete testing or provide a breath sample. A felony information was filed against respondent in State v. Ellzey, case no. 18-CF-06389, Pinellas County, on July 18, 2018. By letter dated August 3, 2018, respondent notified the executive director of The Florida Bar, pursuant to Rule 3-7.2(c), that he had been charged with felony driving under the influence of alcohol, third offense within 10 years. On February 19, 2019, respondent pled guilty to misdemeanor DUI and misdemeanor refusal to submit to testing. On the same date, respondent was found guilty of misdemeanor DUI and misdemeanor refusal to submit to testing. Respondent was placed on probation for a period of 1-year; ordered to pay fines and costs; his driver's license was removed for 5-years; and he was ordered to enroll in Multiple Offender DUI School, including substance abuse evaluation and any recommended treatment; and attend 1 Victim Impact Education Seminar. Respondent notified bar counsel on February 28, 2019 of the adjudication of guilt. On June 9, 2018, respondent voluntarily entered into a 3-year monitoring contract with Florida Lawyer's Assistance, Inc., and has been in compliance with his contract since that time. Additionally, respondent has completed the terms of his criminal probation in case no. 18-CF-06389.

6. Respondent admits that as a result of his conduct described above he is guilty of violating the following Rules Regulating the Florida Bar: Rules **3-4.3** (Misconduct and Minor Misconduct); **3-4.4** (Criminal Misconduct); and **4-8.4(b)** (Misconduct: 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)

7. In mitigation, the respondent does not have a prior disciplinary record [Fla. Stds. Imposing Law. Sanctions. 9.32(a)]; lacked a dishonest or selfish motive [Fla. Stds. Imposing Law. Sanctions. 9.32(b)]; made a full and free disclosure to the

disciplinary board or cooperative attitude towards the proceedings [Fla. Stds. Imposing Law. Sanctions. 9.32(e)]; had personal problems [Fla. Stds. Imposing Law. Sanctions. 9.32(c)]; he is remorseful for his conduct [Fla. Stds. Imposing Law. Sanctions. 9.32(l)]; and respondent is actively participating in interim rehabilitative by entering into a 3-year monitoring contract with Florida Lawyers' Assistance, Inc. on June 9, 2018 [Fla. Stds. Imposing Law. Sanctions. 9.32(j)].

8. In aggravation, the respondent has shown a pattern of misconduct by having prior convictions in 2003 and 2012 for driving under the influence [Fla. Stds. Imposing Law. Sanctions. 9.22(c)].

9. The disciplinary measures to be imposed upon respondent are as follows:

- A. Public reprimand to be administered by publication.
- B. Payment of the costs of the disciplinary proceedings.
- C. Three-year period of probation with the following conditions:
  - i. Respondent will participate actively in the program offered by Florida Lawyers Assistance, Inc., by complying with the conditions in his rehabilitation contract with that organization. Further, respondent shall follow all recommendations by Florida Lawyers Assistance, Inc., during the entire probation period.

ii. Respondent will pay a Florida Lawyers Assistance, Inc., registration fee of \$250.00 and a probation monitoring fee of \$100.00 per month to The Florida Bar's headquarters office. All monthly monitoring fees must be remitted no later than the end of each respective month in which the monitoring fee is due. All fees must be paid to the Bar's headquarters office in Tallahassee. Respondent agrees that failure to adhere to the terms contained within this consent judgment shall constitute a violation of the terms of this agreement and may subject him to further discipline.

10.If this plea is accepted, then Respondent agrees to pay all costs associated with this case pursuant to Rule 3-7.6(q) of the Rules Regulating The Florida Bar, in the amount of **\$1,265.08**. These costs are due in full within 30 days of the Court's order approving this consent judgment. Respondent agrees that he will not attempt to discharge the obligation for the payment of the Bar's costs in any future proceeding, including without limitation, a petition for bankruptcy.

11. Respondent further acknowledges his obligation to pay the costs of this proceeding and that payment is evidence of strict compliance with the conditions of any disciplinary order or agreement and is also evidence of good faith and fiscal responsibility. Respondent understands that failure to pay the costs of this proceeding will reflect adversely on any other bar disciplinary matter in which Respondent may later be involved.

12. Should the Conditional Guilty Plea for Consent Judgment not be approved by The Florida Bar Board of Governors and the Supreme Court of Florida, it and all the statements herein shall be void and of no effect whatsoever.

13. This Conditional Guilty Plea for Consent Judgment fully complies with all requirements of The Rules Regulating The Florida Bar.


Dated this 11<sup>th</sup> day of December, 2019.



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Howard Hunter Ellzey, Jr., Respondent  
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Dated this 12<sup>th</sup> day of December, 2019.



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