

IN THE SUPREME COURT OF FLORIDA
(Before a Grievance Committee)

THE FLORIDA BAR,

Complainant,

The Florida Bar File
No. 2017-30,809(10A)

v.

JEFFREY EDWARD APPEL,

Respondent.

REPORT OF MINOR MISCONDUCT

I. **COMMITTEE RECOMMENDATION:** Pursuant to Rule 3-7.4(m) of The Rules Regulating The Florida Bar, the committee accepts respondent's tendered admission of minor misconduct and recommends that respondent receive an admonishment. The admonishment shall be administered by service of this report.

In addition, the committee recommends respondent's referral to Florida Lawyers Assistance, Inc. Respondent will contact Florida Lawyers Assistance, Inc., at 800-282-8981 for an evaluation within thirty (30) days of the Report of Minor Misconduct. At the end of the sixty (60) day period, respondent will provide the bar's headquarters office with proof that respondent has scheduled an evaluation. If treatment is recommended, respondent will enter into a rehabilitation contract with Florida Lawyers Assistance, Inc., within thirty (30)

days of the recommendation for treatment. Respondent shall follow all recommendations by Florida Lawyers Assistance, Inc., during the entire probation period.

Respondent is board certified and has been advised that any disciplinary sanction imposed may adversely affect his board certification. The Board of Legal Specialization and Education has jurisdiction over the revocation of board certification.

II. SUMMARY OF MISCONDUCT AND RULE VIOLATIONS FOUND:

On March 29, 2017, respondent was arrested and charged with Driving Under the Influence and Driving Under the Influence, Property Damage/Personal Injury. A blood alcohol test of his blood revealed that his blood alcohol content was .398 g/100ml of blood. On August 7, 2017, respondent entered a guilty plea to Driving Under the Influence. He received a sentence of one-year probation, fifty (50) hours of community service, six (6) months interlock device on his car, fines and court costs, abstinence from alcohol, DUI counter attack school, attendance at a MADD victim impact panel, and restitution, if necessary. This is respondent's first arrest and/or charge for an alcohol related offense.

The Rules Regulating The Florida Bar which have been violated are: **3-4.3** The standards of professional conduct to be observed by members of the bar are not limited to the observance of rules and avoidance of prohibited acts, and the

enumeration herein of certain categories of misconduct as constituting grounds for discipline shall not be deemed to be all-inclusive nor shall the failure to specify any particular act of misconduct be construed as tolerance thereof. 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; **3-4.4** Unless modified or stayed by the Supreme Court of Florida as provided elsewhere herein, a determination or judgment of guilt of a member of The Florida Bar by a court of competent jurisdiction of any crime or offense that is a felony under the laws of such jurisdiction is cause for automatic suspension from the practice of law in Florida. In addition, whether the alleged misconduct constitutes a felony or misdemeanor The Florida Bar may initiate disciplinary action regardless of whether the respondent has been tried, acquitted, or convicted in a court for the alleged criminal offense; however, the board may, in its discretion, withhold prosecution of disciplinary proceedings pending the outcome of criminal proceedings against the respondent. The acquittal of the respondent in a criminal proceeding shall not necessarily be a bar to disciplinary proceedings nor shall the findings, judgment, or decree of any court in civil proceedings necessarily be binding in disciplinary proceedings; and, **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.

III. COMMENT ON MITIGATING, AGGRAVATING OR

EVIDENTIARY MATTERS: The committee believes that the following comment on mitigating, aggravating and evidentiary matters will be helpful in considering acceptance of the report: In mitigation, respondent has practiced law since 1993 with no prior discipline [9.32(a)]; he did not display a dishonest or selfish motive [9.32(b)]; his alcohol addiction contributed to his misconduct as shown by his blood alcohol content which was .398 g/100ml of blood [9.32(c), (h)]; he voluntarily sought in-patient treatment and made efforts to rectify the consequences of his misconduct [9.32(d), (j)]; he was cooperative toward the disciplinary proceeding [9.32(e)]; he received other criminal sanctions for the misconduct noted above [9.32(k)]; and, he has expressed remorse [9.32(l)]. In aggravation, respondent has substantial experience in the practice of law [9.22(i)].

IV. ADMONISHMENT: Jeffrey Edward Appel, your actions have discredited the legal profession of the State of Florida. Such conduct cannot be tolerated by your fellow lawyers and should not be tolerated by you. Pride in your profession demands that you not violate the Rules of Professional Conduct again. If you do, your present misconduct will be considered in future disciplinary proceedings.

V. COSTS: The costs of these proceedings are assessed against respondent as

follows:

| | |
|----------------------|-------------------|
| Administrative Costs | \$1,250.00 |
| Bar Counsel Costs | <u>\$27.29</u> |
| TOTAL | \$1,277.29 |

Costs are due The Florida Bar within thirty (30) days from acceptance of this minor misconduct recommendation.

FEES: Respondent will pay a Florida Lawyers Assistance, Inc., registration fee of \$250.00 and a probation monitoring fee of \$100.00 a 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. Failure to pay shall be deemed cause to revoke probation.

Pursuant to Rule 1-3.6(c) of The Rules Regulating The Florida Bar, any person now or hereafter licensed to practice law in Florida shall be deemed a delinquent member if the member fails to pay the costs assessed in diversion or disciplinary cases within thirty (30) days after the disciplinary decision or diversion recommendation becomes final, unless such time is extended by the board of governors for good cause shown. Delinquent members shall not engage in the practice of law in Florida nor be entitled to any privileges and benefits accorded to members of The Florida Bar in good standing.

VI. COMMITTEE VOTE: A quorum consists of not less than three (3) members of the committee being present, two (2) of whom are lawyers. The

committee, by affirmative vote of a majority, voted in favor of the recommendation as stated in Item I above. In accordance with Rule 3-7.4(g) of The Rules Regulating The Florida Bar, the committee reports the number of committee members voting for, or against, this report as follows:

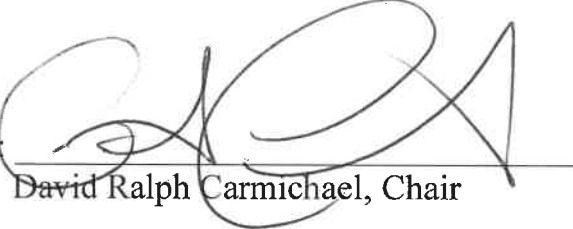
In favor of the report 8

Against the report 0

Dated this 19th day of December, 2017.

Tenth Judicial Circuit Grievance Committee "A"

BY:



David Ralph Carmichael, Chair