

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,

Complainant,

v.

GRANT GRIFFITH SARBINOFF,

Respondent.

Supreme Court Case
No. SC22-573

The Florida Bar File
No. 2017-70,559(11J)(MFC)

REPORT OF REFEREE ACCEPTING CONSENT JUDGMENT

I. SUMMARY OF PROCEEDINGS

Pursuant to the undersigned being duly appointed as referee to conduct disciplinary proceedings herein according to Rule 3-7.2, Rules Regulating the Florida Bar, the following proceedings occurred:

On April 28, 2022, The Florida Bar filed its Notice of Determination or Judgment of Guilt against Respondent in these proceedings. That same day, the Florida Supreme Court entered an order felony suspending Respondent, effective after 30 days. The parties have signed a Consent Judgment, which has been submitted. The undersigned has reviewed the proposed Consent Judgment, agrees with the contents, and now ratifies and accepts the terms proposed therein.

II. FINDINGS OF FACT

A. Jurisdictional Statement. Respondent is, and at all times mentioned during this investigation was, a member of The Florida Bar, subject to the jurisdiction and disciplinary rules of the Supreme Court of Florida.

B. Narrative Summary Of Case. Respondent was arrested in May 2017 and charged with several felonies in connection with his alleged stalking and cyberstalking of a woman named K.L. The arrest warrant and affidavit describe a series of unlawful acts that relate to the same nucleus of facts occurring from approximately November 2015 until respondent's arrest in 2017. On or about November 24, 2021, respondent entered a plea and was adjudicated guilty on two counts of Criminal Use of Personal Identification Information (Fla. Stat. § 817.568(2)(A) and (C)), one count of Unlawful Use of a Two-Way Communications Device (Fla. Stat. § 934.215), and sixteen counts of Offenses Against Users of Computers (Fla. Stat. § 815.06(2)(A)). Adjudication was withheld as to all of the aforementioned charges, other than one count of Criminal Use of Personal Identification Information under Fla. Stat. § 817.568(2)(C). Respondent was sentenced to 90 days in jail and probation.

The Bar filed its Notice of Determination or Judgment of Guilt on April 28, 2022, and respondent was felony suspended by the Florida Supreme Court that same day. The undersigned was appointed referee on May 10, 2022, and these proceedings commenced.

Respondent does not deny his guilt, but maintains that during the subject time period, he was suffering from mental and behavioral dysfunction brought about by the unforeseen, adverse effects of a prescription drug prescribed by a mental health professional. Respondent sought and received mental health evaluation and treatment while serving his sentence. Respondent has continued his treatment through the present, and Respondent has also been taken off of the subject medication. Respondent has also entered into a contract with Florida Lawyer's Assistance, Inc. (FLA, Inc.). Respondent is enrolled in an MBA program at Boston University and is currently maintaining an "A" grade point average.

III. RECOMMENDATIONS AS TO GUILT

I recommend that Respondent be found guilty of violating the following Rules Regulating The Florida Bar:

- A. 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.)

Respondent will eliminate all indicia of respondent's status as an attorney on email, social media, telephone listings, stationery, checks, business cards office signs or any other indicia of respondent's status as an attorney, whatsoever.

IV. STANDARDS FOR IMPOSING LAWYER SANCTIONS

I considered the following Standards prior to recommending discipline:

5.1 Failure to Maintain Personal Integrity

- (b) **Suspension.** Suspension is appropriate when a lawyer knowingly engages in criminal conduct which is not included elsewhere in this subdivision or other conduct involving dishonesty, fraud, deceit, or misrepresentation that seriously adversely reflects on the lawyer's fitness to practice.

I find this standard to be applicable in the instant case based upon the admissions tendered in respondent's Conditional Guilty Plea for Consent Judgment.

In recommending discipline, I also considered the following mitigating factors, as reflected in section 3.3 of Florida's Standards for Imposing Lawyer Sanctions:

- (1) *Absence of a prior disciplinary record.* Respondent has been a member of The Florida Bar since 2010, with no prior discipline.

(3) *Personal or emotional problems.* Respondent submitted evidence to the Bar that when his father died, he suffered severe emotional distress that led to the over-medication of a strong stimulant (as described in more detail below) which exacerbated respondent's problems.

(5) *Full and free disclosure to the bar or cooperative attitude toward the proceedings.* Respondent has cooperated with all requests by The Florida Bar.

(8) *Mental disability or impairment.* Respondent has been long diagnosed with ADHD and prescribed the stimulant Adderall. The prescription dosage of the stimulant was doubled after respondent's father died and set at the maximum allowed dosage for an adult male. Dr. Sanford Jacobson, the forensic psychiatrist who made the initial diagnosis of "stimulant-induced psychosis," opined that the prescribed dose was far greater than what should have been prescribed. Dr. Merry Haber, respondent's current psychologist, has opined that she agrees with Dr. Sanford Jacobson, that the prescribed dose was far greater than what should have been prescribed and resulted in Adderall-induced psychosis which was the primary cause of respondent's unlawful behavior. Dr. Haber

has opined that but-for the greatly overprescribed stimulant Adderall, respondent would not have engaged in the criminal acts.

(10) *Interim rehabilitation.* Respondent has engaged in continued voluntary appointments with Dr. Merry Haber, his current psychologist, continuously for over 3 years to the present. Respondent has voluntarily enrolled in FLA, Inc. and has dutifully complied with all requirements and will continue to do so during the proposed three-year term of the FLA, Inc. contract.

(11) *Imposition of other penalties or sanctions.* Respondent was disciplined by the criminal justice system and is currently on probation and will remain on probation during the term of his contract with FLA, Inc.

(12) *Remorse.* Respondent is genuinely and truly remorseful for his actions.

V. CASE LAW

I considered the following case law prior to recommending discipline:

TFB v. Zepeda, 2016 WL 4399105 (Fla. Aug. 18, 2016) – The respondent received a withheld adjudication and 10-year probation for an aggravated assault with a firearm and trespass to a structure with a firearm (both felonies). The respondent entered into a consent judgment for a three-year suspension (which the Supreme Court approved), based upon mitigating evidence that he was in a state of psychosis due to the effect of a combination of prescribed

medications, which made the respondent unable to appreciate the unlawfulness of his conduct.

TFB v. Chiarenza, Case No. 16-741, TFB File No. 2016-70,458 (Fla. 2018) – Respondent received a three-year suspension following a felony conviction for assault with a firearm in connection with a physical confrontation with an unarmed person. In mitigation, respondent established that he had sustained a traumatic and permanent brain injury earlier in his life, such that any further minor injuries to his head could result in incapacitation or death.

Consequently, the referee found that respondent's use of a firearm in the altercation was "a response to what he perceived as a potentially fatal encounter," which was sufficient to mitigate the sanction to a suspension.

TFB v. Corbin, 540 So. 2d 105 (Fla. 1989) – The respondent pled *nolo contendere* to a charge of attempted sexual activity with a child between 12 and 18 years of age, with whom he stood in a position of familial or custodial authority. This warranted a three-year suspension rather than disbarment based upon mitigation that it was an isolated incident that arose from the respondent's depression and increasingly severe drinking problem. The respondent completed a residential alcohol treatment program, began psychosexual counseling, and expressed remorse over his misconduct and the injury to the victims.

TFB v. Jahn, 509 So. 2d 28 (Fla. 1987) – Respondent received a three-year suspension following his plea of *nolo contendere* to felony drug charges where he demonstrated that the offenses resulted from his drug addiction and treatment was sought.

VI. RECOMMENDATION AS TO DISCIPLINARY MEASURES TO BE APPLIED

I recommend that Respondent be found guilty of misconduct justifying disciplinary measures, and that he be disciplined by:

A. Suspension from the practice of law for a period of three (3) years,
nunc pro tunc to May 30, 2022; and

B. the payment of the Bar's costs in this matter.

VII. PERSONAL HISTORY AND PAST DISCIPLINARY RECORD

Prior to recommending discipline pursuant to Rule 3-7.6(m)(1)(D), I considered the following personal history of Respondent, to wit:

Age: 43 years old

Date admitted to the Bar: April 16, 2010

Prior Discipline: None

VIII. STATEMENT OF COSTS AND MANNER IN WHICH COSTS SHOULD BE TAXED

I have reviewed The Florida Bar's Motion to Assess Costs and find the following costs were reasonably incurred by The Florida Bar:

Administrative Fee Rule 3-7.6(q)(1)(I)	\$1,250.00
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Staff Investigator's Costs	\$ 152.25
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TOTAL	\$1,402.25
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It is recommended that such costs be charged to Respondent and that interest at the statutory rate shall accrue and that should such cost judgment not be satisfied within thirty days of said judgment becoming final,

Respondent shall be deemed delinquent and ineligible to practice law, pursuant to R. Regulating Fla. Bar 1-3.6, unless otherwise deferred by the Board of Governors of The Florida Bar.

Dated this 4th day of October, 2022.



Honorable Richard Hersch, Referee

Original To:

Clerk of the Supreme Court of Florida; Supreme Court Building; 500 South Duval Street, Tallahassee, Florida, 32399-1927

Conformed Copies to:

Richard Baron, Attorney for Respondent; rb@richardbaronlaw.com

Jerry Breslin, Attorney for Respondent; jb@richardbaronlaw.com

John Derek Womack, Bar counsel; jwomack@floridabar.org

Patricia Ann Toro Savitz, Staff Counsel; psavitz@floridabar.org