

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

FILED

SID J. WHITE

DEC 2 1905

CLERK, SUPREME COURT

By ~~Chief Deputy Clerk~~

PAUL H. HESSLER,

Petitioner,

vs.

Case No. 66,884

THE FLORIDA BAR,

Respondent.

REPORT AND RECOMMENDATION OF REFERREE

Evidentiary hearing on the application of Paul H. Hessler for reinstatement to the Florida Bar now being concluded on the evidence and the record, the undersigned Referee reports and recommends as follows:

The issue to be resolved is whether or not Paul H. Hessler, Petitioner, has demonstrated fitness to be readmitted to the practice of law in the State of Florida.

The criteria to be followed are those of the Florida Bar Integration Rule, Article 11, Rule 11.11 regarding reinstatement.

These criteria are:

1. Strict compliance with the disciplinary order.
2. Evidence of unimpeachable character and moral standing in the community.
3. Clear evidence of good reputation for professional ability.
4. Evidence of lack of malice and ill feeling by the petitioner toward those who by duty were compelled to bring about the disciplinary proceedings.
5. Personal assurance, supported by corroborating evidence, revealing a sense of repentance as well as a desire and intention of the petitioner to conduct himself in an exemplary fashion in the future.

6. Proof that petitioner has conducted himself personally and in the community in such a manner as will justify the conclusion that:

- a. he has repented his misdoings;
- b. the disciplinary order has impressed him with the vital importance of the ethical conduct in the practice of law; and,
- c. he is morally equipped to resume a position of honor and trust as a member of the Bar.

STRICT COMPLIANCE WITH THE DISCIPLINARY ORDER

Petitioner was suspended in 1980 for misconduct growing out of misappropriation of funds. Mr. Hessler has since his suspension refrained from the practice of law, and his primary means of livelihood have been in the area of college teaching, currently as an Assistant Professor of Business Law at the University of South Florida.

The Referee finds that Mr. Hessler has complied with the disciplinary order.

**EVIDENCE OF UNIMPEACHABLE CHARACTER AND MORAL
STANDING IN THE COMMUNITY**

Evidence of Mr. Hessler's character and moral standing is not in dispute.

Petitioner called several witnesses, including lawyers and academic associates, who testified they have found Mr. Hessler to be of good character and worthy of public confidence.

The Referee further finds that Mr. Hessler's efforts in education is something that demonstrates his fitness and qualifications through his efforts to help people and to take his education, training and his profession and pass that on to others. He hasn't gone out and looked for some alternative type of practice that would be just a money-making scheme. He has tried to help others, and he is a relatively young man with a long career in

front of him. It is the opinion of this Referee that Petitioner is probably a more secure risk to the public than many attorneys who never had anything happen to them.

CLEAR EVIDENCE OF A GOOD REPUTATION FOR
PROFESSIONAL ABILITY

Petitioner has been able to establish evidence of a good reputation for professional ability. It is the decision of the Referee that Mr. Hessler is fit to return to the practice of law and he is qualified through his continuing use of his own education through helping others by teaching.

PERSONAL ASSURANCE SUPPORTED BY EVIDENCE
REVEALING A SENSE OR REMORSE AS WELL AS DESIRE
AND INTENTION OF PETITIONER TO CONDUCT HIMSELF IN
AN EXEMPLARY FASHION IN THE FUTURE

The Referee finds that Mr. Hessler has demonstrated true remorse. He has paid his retribution to society as his deterrant and it certainly may follow that he has paid sufficient penalty to deter anyone else. He has done everything in practically a role-model type of case of demonstrating what is necessary to show that he has a fitness and qualification to return to practice.

RESTITUTION OF MISAPPROPRIATED FUNDS

At the time of this proceeding, Petitioner has been unable to make full restitution. It has been further noted by all parties that the whereabouts of the heirs to the Ahrens estate is unknown despite reasonable efforts to locate.

The Bar urges that full restitution should be made prior to Petitioner's readmission so that the public's faith and confidence will be restored.

Petitioner states a willingness to make restitution on an installment basis should it be deemed necessary and

appropriate under the circumstances. Further, a schedule was prepared in contemplation of such contingency which shall be included herewith.

I agree with Petitioner that the repayment of the money alone will not demonstrate fitness or qualification. If a wealthy man could afford to do it, he could buy his way back in.

From what I have heard, it would be extremely difficult for Mr. Hessler to repay this amount of money without returning to the gainful practice of law.

RECOMMENDATION

The Referee notes that he is following the Integration Rule 11.11 regarding Reinstatement and it is this Referee's decision, after hearing the testimony and listening to all the facts, that Mr. Hessler is fit to return to the practice of law and he is qualified.


My recommendation to the Supreme Court of the State of Florida is that Mr. Hessler be allowed to return to the practice of law and that he be reinstated.

Further, if the Supreme Court deems it additionally necessary that restitution should still be required under all the circumstances, that Petitioner be allowed to make such payment in installments with an independent financial institution to act as trustee of said funds. A payment schedule proposal is included herewith, if this is found to be an appropriate method.

Finally, Petitioner should be readmitted to the practice of law under a three year maximum probationary period subject to quarterly audits of trust accounts.

It is the recommendation of the Referee that the application of Paul R. Hessler for reinstatement to the Florida Bar be accepted immediately. Dated this 22nd day of November, 1985.

Respectfully submitted,



Hon. Thomas M. Gallen
Referee

Copies furnished to:
Dominic J. Baccarella, Esq.
David Ristoff, Esq.