

IN THE SUPREME COURT OF FLORIDA
(Before A Referee)

THE FLORIDA BAR,

Complainant

vs.

KERRY J. NAHOOM,

Respondent.

CASE NO. 09C86C21
FILED
SC No. 891
SID J. WHITE
OCT 5 1987

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 Article XI of the Integration Rule of The Florida Bar, hearing was held on December 5, 1986. The Pleadings, Notices, Motions, Orders, Transcripts and Exhibits, all of which are forwarded to The Supreme Court of Florida with this report, constitute the record in this case. The following attorneys appeared as counsel for the parties:

For The Florida Bar, John B. Root, Jr.

For The Respondent, Kerry J. Nahoom

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 that between October 1979 and June 1980 the Respondent, KERRY J. NAHOOM, committed felonies of knowingly, willfully and intentionally combining, conspiring,

confederating and agreeing with others to possess a quantity of marijuana, with intent to distribute and to import into the United States from a place outside thereof.

The Respondent was indicted by the grand jury on three drug offenses, and tried in the United States District Court, Middle District of Florida Orlando Division. On March 8, 1985 a jury verdict was returned finding the Respondent guilty in two counts of violating Title 21, United States Code, Section 841(a)(1), 846, 952(a) and 963. On April 15, 1985 the Respondent was adjudged guilty on both counts and sentenced by the Honorable G. Kendall Sharp. On June 17, 1986 the United States Court of Appeals for the Eleventh Circuit affirmed judgment of convictions [See United States v. Nahoom, 791 F.2d 841 (11th Cir. 1986)]. Under Rule 3-7.2(a)(1), Rules Regulating The Florida Bar, conviction and final action thereon renders further proof of said offenses unnecessary.

III. Recommendations As To Whether Or Not The Respondent

Should Be Found Guilty: I recommend that the Respondent be found guilty and specifically that he be found guilty of the following violations of his Oath as an attorney, The Integration Rules of the Code of Professional Responsibility, to wit: (a) Integration Rule of The Florida Bar, Article XI, Rule 11.02(3)(a) for engaging in conduct contrary to honesty, justice and good morals; (b) Disciplinary Rule 1-102(A)(3) for engaging in illegal conduct involving moral turpitude;

(c) Disciplinary Rule 10102(A)(4) for engaging in conduct involving dishonesty, fraud, deceit or misrepresentation; and (d) Disciplinary Rule 1-102(A)(6) for conduct which adversely reflects on his fitness to practice law.

IV. Recommendation As To Disciplinary Measures To Be

Applied: I recommend the Respondent be disbarred from the practice of law. The Florida Bar v. Marks, 492 So.2d 1326 (Fla. 1986); The Florida Bar v. Price, 478 So.2d 812 (Fla. 1985); and, The Florida Bar v. Beasley, 351 So.2d 959 (Fla. 1977) (Disbarment is the appropriate sanction for a serious drug offense, such as trafficking in marijuana.)

V. Personal History And Past Disciplinary Record: After finding of guilty and prior to recommending discipline to be recommended pursuant to Rule 11.06(9)(a)(4), I considered the following personal history and prior disciplinary record of the Respondent, to wit:

Age: 40

Date admitted to Bar: October 6, 1972

Prior disciplinary convictions and disciplinary measures imposed therein: Suspended for three years because of a felony conviction in 1985 which is the basis for this matter. The felony conviction was affirmed by the United States Court of Appeals for the Eleventh Circuit on June 17, 1986. Respondent was sentenced to three years imprisonment and \$5,000 fine. On November 11, 1986 Respondent was released from prison and sent to

a halfway house in Maitland, Florida. At present he resides at 400 East Colonial Drive, Apartment 1506, Orlando, FL 32803.

Other personal data: Graduated from Florida State University; graduated from Florida State University Law School in 1972; former Assistant United States Attorney in Miami; divorced; father of two sons, ages 18 and 15.

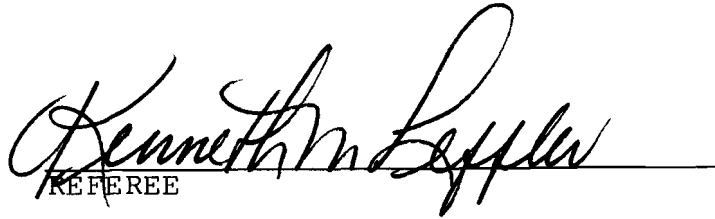
VI. Statement of Costs and Manner in Which Costs Should be Taxed: I find the following costs were reasonably incurred by The Florida Bar.

A. Grievance Committee Level Costs	
1. Administrative Costs	\$150.00
B. Referee Level Costs	
1. Administrative Costs	150.00
2. Transcript Costs	154.25
3. Investigator's Expenses	225.61
C. Miscellaneous Costs	
1. Telephone Charges	<u>29.24</u>
TOTAL ITEMIZED CHARGES	\$709.10

It is apparent that other costs have or may be incurred. It is recommended that all such costs and expenses together with the foregoing itemized costs be charged to the respondent, and that interest at the statutory rate shall accrue and be payable beginning 30 days after the judgment in this case becomes final

unless a waiver is granted by The Board of Governors of The Florida Bar.

DATED this 1st day of October, 1987.


REFEREE

Copies furnished to:

John B. Root, Jr., Esquire
Assistant Bar Counsel
The Florida Bar
605 East Robinson Street
Orlando, FL 32801

Kerry J. Nahoom, Esquire
400 East Colonial Drive
Apartment 1506
Orlando, FL 32803

Staff Counsel
The Florida Bar
Tallahassee, FL 32301