

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,
Complainant,

CASE NO. 69,008

v.

DENNIS P. SHEPPARD,
Respondent.

FILED
SID J. WHITE

JAN 22 1987

CLERK, SUPREME COURT

By Deputy Clerk

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, The Florida Bar Integration Rule, a hearing was held at the Miami office of The Florida Bar at 211 Rivergate Plaza, 444 Brickell Avenue, Miami, Florida, on December 5, 1986.

The following attorneys appeared as counsel for the parties:

For The Florida Bar - Paul A. Gross, Bar Counsel,
of Miami, Florida

For the Respondent - Edward A. Carhart
of Coral Gables, Florida

II. FINDINGS OF FACT AS TO MISCONDUCT OF WHICH
RESPONDENT IS CHARGED:

After considering all of the pleadings and evidence presented before the undersigned, pertinent portions of which are commented upon below, the undersigned referee finds:

On September 25, 1986 an Order on Motion for Order Deeming Matters Admitted was signed by the undersigned. Accordingly, the matters contained in the Complainant's Request for Admissions were admitted (Florida Rules of Civil Procedure, Rule 1.370).

On page 6 of the transcript, Mr. Gross stated:

In view of the fact that the matters in the Request for Admissions have been deemed admitted, I will ask at this time if you plead guilty to the charges in the Complaint.

Mr. Carhart, counsel for Respondent, responded:

We are not pleading guilty to the charges in the Complaint, but our admissions stand on the record.

In concise form, the facts in this case are as follows:

On or about May 29, 1985, Dennis P. Sheppard while driving a car on State Road 878 near State Road 874, Dade County, Florida, was stopped by a Florida State Trooper for a traffic violation. When Mr. Sheppard was asked for the registration, he produced a vehicle rental slip, which indicated the vehicle was overdue and was in the name of another person. The trooper received permission to search the car and he found 298 grams of marijuana, \$10,000 in cash and a record of names with addresses and quantities.

Mr. Sheppard was called as an adverse witness by The Florida Bar and his testimony (Transcript, pages 6-49) shows by clear and convincing evidence that the allegations in the Complaint are correct. In addition, Mr. Sheppard admitted that he sold marijuana (Transcript, page 9). He testified that he had been selling marijuana for about a month and that he received approximately \$25,000 for the marijuana, but made only \$3,000 profit (Transcript, page 13).

Thirteen character witnesses testified on behalf of Mr. Sheppard. Also, Charles Hagan, Jr., Executive Director, Florida Lawyers Assistance, Inc., submitted a report (Respondent's Exhibit B), which stated in part:

(1) Dennis is a thoroughly integrated alcoholic and displays the signs and symptoms common to his disease. (2) His disease was definitely one of the underlying causes of the misconduct charged.

III. RECOMMENDATION AS TO WHETHER OR NOT THE RESPONDENT SHOULD BE FOUND GUILTY

The undersigned referee recommends that the Respondent, Dennis P. Sheppard, be found guilty of violating the Code of Professional Responsibility, Disciplinary Rule 1-102(A)(3), engaging in illegal conduct involving moral turpitude.

IV. RECOMMENDATION AS TO DISCIPLINARY MEASURES TO BE APPLIED

The undersigned referee recommends that Dennis P. Sheppard be suspended from practicing law in Florida for a period of one year and he be required to show proof of rehabilitation before being reinstated as a member in good standing in The Florida Bar.

V. PERSONAL HISTORY AND PAST DISCIPLINARY RECORD

Mr. Sheppard is forty-one years of age, divorced and the father of two daughters - one a senior in high school and the other in the tenth grade (Testimony, page 11). He is a veteran of the Vietnam War and served in Vietnam as a first lieutenant in the Military Police of the U.S. Army. In addition, Mr. Sheppard was awarded the Bronze Star Medal and the Vietnam Service Medal (Transcript, pages 16-17). Before going into the Army, Mr. Sheppard was number one in his class at the University of Miami Law School. After leaving the Army, Mr. Sheppard returned to law school and he was one of the top four in his graduating class (Testimony, page 18).

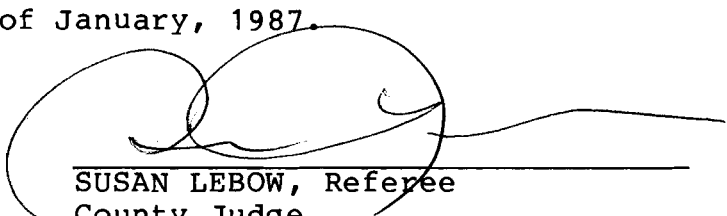
Mr. Sheppard was admitted to The Florida Bar during 1973 and has no record of prior disciplinary action.

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

Administrative Costs at Grievance Committee Level and Referee Level	300.00
Court Reporter Fees:	
Grievance Committee Hearing (4/30/86)	182.20
Referee Hearing (12/05/86)	656.20
Witness fee & subpoena cost at Grievance Committee hearing	<u>6.00</u>
TOTAL:	\$1,144.40

It is recommended that the above costs and expenses be charged to the Respondent, for which sum let execution issue.

Dated this 20 day of January, 1987.

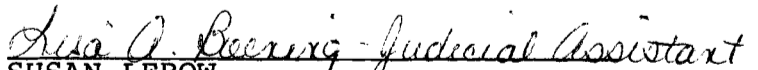


SUSAN LEBOW, Referee
County Judge
200 Broward County Courthouse
201 SE 6th Street
Ft. Lauderdale, FL 33301
(305) 357-7853

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that true and correct copies of the foregoing Report of Referee were mailed to the following attorneys on the 20 day of January, 1987:

- 1) Paul A. Gross, Bar Counsel, The Florida Bar, 211 Rivergate Plaza, 444 Brickell Avenue, Miami, Florida, 33131;
- 2) John T. Berry, Staff Counsel, The Florida Bar, Tallahassee, Florida, 32301-8226;
- 3) Edward A. Carhart, Counsel for Respondent, 717 Ponce deLeon Boulevard, Suite 331, Coral Gables, Florida, 33134.


SUSAN LEBOW Referee
LISA A. BOERING
Judicial Assistant