

FILED

SID J. WHITE

FEB 7 1991

CLERK, SUPREME COURT

By

Deputy Clerk

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,
Complainant,

SUPREME COURT CASE NO. 76,460

v.

The Florida Bar Case
No. 91-50,147(17C)

KENNETH P. LIROFF,
Respondent.

REPORT OF REFEREE

I. Summary of Proceedings: Pursuant to the undersigned being duly appointed as referee to conduct disciplinary proceedings herein according to the Rules of Discipline, a hearing on The Florida Bar's Petition to Show Cause was held on Friday, November 30, 1990.

The following attorneys appeared as counsel for the parties:

For The Florida Bar - Linda J. Amidon

For the Respondent - J. David Bogenschutz

II. Findings of Facts:

1. On March 26, 1987, the Supreme Court issued an Opinion "privately reprimanding" the Respondent, and ordering him to submit to a substance abuse evaluation by the Florida Lawyers Assistance, Inc. Further, in their Opinion, the Supreme Court ordered the Respondent to "follow through with any recommendations arising therefrom."

2. On August 31, 1989, the Supreme Court found that the Respondent violated its March 1987 Order by failing to comply with the conditions and recommendations of the Florida Lawyers Assistance, Inc., and placed the Respondent on probation for a period of two (2) years and "thereafter, until he is able to demonstrate to the Board of Governors

of The Florida Bar that he has successfully completed the rehabilitation program pursuant to the contract entered into by him with Florida Lawyers Assistance, Inc."

3. I Have considered evidence including affidavits of William Kilby, Staff Attorney for Florida Lawyers Assistance, Roger A. Stanway, Susan K. Huart, the testimony of the Respondent, as well as the recommendations from Florida Lawyers Assistance, Inc., and I find that Respondent, Kenneth P. Liroff, has failed to comply with the Supreme Court Orders of March 26, 1987 as well as their Order of August 31, 1989.

4. I further find that the Respondent has violated his probation by failing to comply with his Florida Lawyers Assistance, Inc. contract, or to follow the recommendations made by Florida Lawyers Assistance, Inc.

5. I find that the Respondent is in a "denial phase" of his drug dependency problem, and is in need of an inpatient drug rehabilitation and treatment program.

III. Recommendations as to whether or Not the Respondent Should be Held in Contempt: I recommend that the Respondent be held in contempt of this Court for failing to comply with the Court's Orders of March 26, 1987 as well as August 31, 1989, and specifically recommend that he be suspended from the practice of law for two (2) months; the suspension to begin on December 30, 1990, which is thirty (30) days from the date of the referee hearing. I further recommend that the Respondent be required to enter a Florida Lawyers Assistance, Inc. approved in-patient drug treatment facility within the sixty (60) day suspension period. If the Respondent fails to promptly enter into such drug treatment facility, I recommend that he be suspended for a period greater than one

(1) year or until such time he is able to establish by clear and convincing evidence that he is completely rehabilitated from his chemical dependency problem, and further that he has complied with the previously stated Supreme Court Orders.

IV. Personal History and Past Disciplinary Record:

Age: 48

Date admitted to Bar: 1981

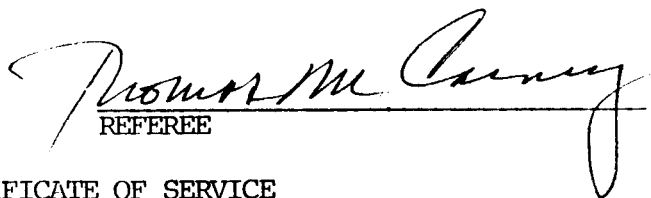
Prior Disciplinary convictions and disciplinary measures imposed therein: I have considered the prior disciplinary record of the Respondent as recited in the Findings of Fact above.

V. Statement of Costs and Manner in Which Cost Should be taxed:

Administrative Costs	\$500.00
Court Reporter costs 11/30/90	<u>328.00</u>
Sub total	\$500.00

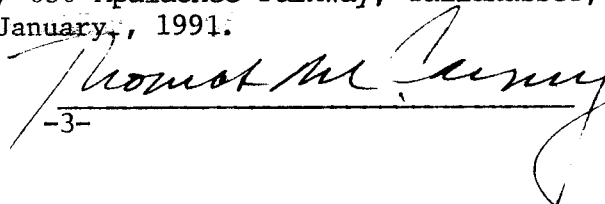
It is apparent that other costs have been incurred. It is recommended that all such costs and expenses together with the foregoing itemized costs be charged to the Respondent.

Dated this 2nd day of January, 1991.


REFeree

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the above report of referee has been served on Linda J. Amidon, Bar Counsel, The Florida Bar, Cypress Financial Center, Suite 835, 5900 North Andrews Avenue, Ft. Lauderdale, FL 33309, J. David Bogenschutz, Attorney for Respondent, 633 Southeast Third Avenue, Suite 4 F, Ft. Lauderdale, FL 33301, and John T. Berry, Staff Counsel, The Florida Bar, 650 Apalachee Parkway, Tallahassee, FL 32399-2300, this 2nd day of January, 1991.


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