

IN THE SUPREME COURT OF FLORIDA  
(Before a Referee)

THE FLORIDA BAR,  
Complainant,

v.

PAUL WESLEY DARBY,  
Respondent.

Supreme Court Case  
No. SC23-0417

The Florida Bar File  
No. 2022-30,584 (5B)

Received, Clerk, Supreme Court

JUL 24 2023

**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 3-7.6, Rules of Discipline, the following proceedings occurred:

On March 20, 2023, The Florida Bar filed its Complaint against respondent in these proceedings. All of the aforementioned pleadings, responses thereto, exhibits received in evidence, and this Report constitute the record in this case and are forwarded to the Supreme Court of Florida.

**II. FINDINGS OF FACT**

1. 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.

2. Narrative Summary of Case.

A. On or about August 15, 2020, respondent was arrested for Driving Under the Influence and Refusal to Submit Second Offense in Lake County, Florida.

B. In Case No. 2020-MM-4050, respondent pled no contest to Reckless Driving with Alcohol and Refusal to Submit to Chemical/Physical Test.

C. On April 21, 2021, the judge sentenced respondent to 12 months of probation on each count, to run concurrently.

D. Respondent's probation was successfully terminated on September 13, 2021.

E. On or about January 24, 2022, respondent was arrested for Leaving the Scene of a Crash with Property Damage.

F. On April 7, 2022, in Case No. 2022-CT-536, respondent pled guilty to Leaving the Scene of a Crash in Lake County and was sentenced to six months of probation.

G. Five days later, on April 12, 2022, respondent violated his

probation with an arrest for Driving Under the Influence, Possession of a Controlled Substance and Refusal to Submit to Breath Alcohol Testing.

H. Respondent admitted to the violation of probation in Case No. 2022-CT-536, and his probation was terminated on September 2, 2022, with no additional sanctions.

I. On or about September 2, 2022, respondent pled no contest to Driving Under the Influence (1 Prior Conviction) and Refusal to Submit to Chemical/Physical Test in Lake County Case No. 2022-CT-3028. He was credited with time served and received a 12-month period of probation with special conditions.

J. On or about September 7, 2022, respondent voluntarily entered into a rehabilitation contract with Florida Lawyers Assistance, Inc. (FLA, Inc.).

### III. RECOMMENDATIONS AS TO GUILT

Pursuant to the consent judgment, I recommend that respondent be found guilty of violating the following Rules Regulating The Florida Bar: 3-4.3 (Misconduct and Minor Misconduct) and 4-8.4(b) (Misconduct).

### IV. STANDARDS FOR IMPOSING LAWYER SANCTIONS

I considered the following Standards prior to recommending discipline:

5.1 Failure to Maintain Personal Integrity

5.1(b) 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.

3.2(b) Aggravating Factors:

- (3) a pattern of misconduct; and
- (9) substantial experience in the practice of law.

3.3(b) Mitigating Factors:

- (1) absence of a prior disciplinary record;
- (2) absence of a dishonest or selfish motive;
- (3) personal or emotional problems;
- (5) cooperative attitude toward the disciplinary proceedings;
- (8) physical or mental disability or impairment or substance related disorder;
- (10) interim rehabilitation;
- (11) imposition of other penalties or sanctions; and

(12) remorse.

V. CASE LAW

I considered the following case law prior to recommending discipline:

The Florida Bar v. Prescott, 2022 WL 4242717 (Fla. Sep. 15, 2022)

(Unpublished Disposition), pursuant to a consent judgment, the Court publicly reprimanded Prescott and placed her on probation for three years. In 2019, Prescott was cited for Driving Under the Influence (DUI) in Georgia. Respondent pled guilty to the reduced misdemeanor charge of Failure to Exercise Due Care. In May of 2021, Prescott was arrested for DUI – Unlawful Blood Alcohol and DUI – Damage to Property or Person of Another in Orange County, Florida and pled no contest to the first-degree misdemeanor charge of DUI with Property Damage. Prescott timely self-reported the Florida plea and admitted that she had failed to timely report the 2019 Georgia plea. In December 2021, Prescott was again arrested for DUI. In April of 2022, Prescott admitted to the violation of probation and pled no contest. The trial court sentenced Prescott to 30 days in jail with a suspended sentence and new period of probation.

The Florida Bar v. Shealy, 2020 WL 1888623 (Fla. Apr. 16, 2020)

(Unpublished Disposition), pursuant to a consent judgment, Shealy

received a public reprimand and a two-year period of probation requiring Shealy to enter into a FLA, Inc. contract. Shealy pled guilty to Driving Under the Influence Causing or Contributing to Injury to Person or Property and Refusal to Submit to Chemical or Physical Test, both first degree misdemeanors. Shealy reported his conviction and voluntarily entered into a FLA, Inc. contract. Shealy had a prior DUI conviction in 2011.

The Florida Bar v. Christopher John Bondani, 2019 WL 1856450 (Fla. Apr. 25, 2019) (Unpublished Disposition), pursuant to a consent judgment, Bondani was suspended for ten days followed by a 3-year period of probation to FLA, Inc. Bondani was arrested twice for driving while under the influence. He entered a no contest plea to the amended charge of reckless driving, a second-degree misdemeanor. The trial court adjudicated him guilty and sentenced him to 364 days of probation with conditions of supervision. Bondani also entered a no contest plea to a charge of driving under the influence, a misdemeanor. The trial court adjudicated him guilty and sentenced him to 12 months of probation with conditions of supervision. In mitigation, Bondani had no prior disciplinary history and entered into an in-patient treatment program for rehabilitation.

The Florida Bar v. Rumore, 2017 WL 4974598 (Fla. Nov. 2, 2017)

(Unpublished Disposition), pursuant to a consent judgment, Rumore received a ten-day suspension. On or about November 12, 2013, Rumore was arrested and charged with Driving Under the Influence and Possession of Cannabis in an amount less than 20 grams, both misdemeanors.

Rumore was tried before a jury on the charge of DUI and convicted of one count of DUI. The trial court sentenced Rumore to a six-month period of probation, driver's license suspension for six months, a \$500 fine, 50 hours of community service, DUI school, 10-day immobilization by Landshark, random breath and urinalysis, and victim impact panel. Thereafter, Rumore entered a plea of no contest to the second charge of Possession of Cannabis under 20 grams. Rumore was ordered to pay court costs on that charge and adjudication was withheld. He successfully completed his probation as well as 32 group counseling sessions. Rumore was evaluated by FLA, Inc. and was not recommended for ongoing treatment.

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. Ten-day suspension from the practice of law.

B. Three-year period of probation with the following conditions:

i. Respondent will continue to participate actively in the program offered by Florida Lawyers Assistance, Inc. (FLA, Inc.). On or about September 7, 2022, respondent voluntarily entered into a rehabilitation contract with FLA, Inc. Respondent shall follow all recommendations in the FLA, Inc. contract during the entire probation period. Respondent agrees to extend the length of the rehabilitation contract to match the probationary period.

ii. Respondent will pay a FLA, Inc. probation monitoring fee of \$100.00 per month directly to FLA, Inc. The Florida Bar will monitor respondent's compliance with his FLA, Inc. rehabilitation contract, including nonpayment of the monthly monitoring fees. Should respondent fail to pay FLA, Inc., respondent's failure to pay will be reported to The Florida Bar, and the bar will follow up, with regards to respondent's noncompliance, up to and including holding respondent in contempt for failure to pay the monthly monitoring fees.

C. Payment of the bar's disciplinary costs.

D. During the period of suspension, 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.

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: 40

Date admitted to the Bar: September 24, 2009

Prior Discipline: None

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

I find the following costs were reasonably incurred by The Florida

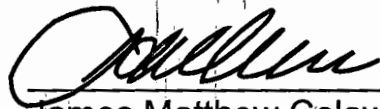
Bar:

|                       |            |
|-----------------------|------------|
| Investigative Costs   | \$218.64   |
| Bar Counsel Costs     | \$60.70    |
| Administrative Fee    | \$1,250.00 |
| Court Reporters' Fees | \$130.00   |

TOTAL \$1,659.34

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 18th day of JULY, 2023.



James Matthew Colaw, Referee

Original To:

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

Conformed Copies to:

Barry William Rigby, Counsel for Respondent, 2462 E. Michigan Street, Suite 102, Orlando, FL 32806-5059, [barryrigbylaw@gmail.com](mailto:barryrigbylaw@gmail.com)

Carrie Constance Lee, Bar Counsel, The Florida Bar, 1000 Legion Place, Suite 1625, Orlando, Florida 32801-1050, [clee@floridabar.org](mailto:clee@floridabar.org), [orlandooffice@floridabar.org](mailto:orlandooffice@floridabar.org), [dsullivan@floridabar.org](mailto:dsullivan@floridabar.org); and

Patricia Ann Toro Savitz, Staff Counsel, The Florida Bar, 651 E. Jefferson Street, Tallahassee, FL 32399-2300, [psavitz@floridabar.org](mailto:psavitz@floridabar.org).