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IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,

Complainant,

v.

BRIAN ROBERT PINGOR,

Respondent.
_______________________________/

Supreme Court Case
No. SC2024-1817

The Florida Bar File
No. 2023-10,467 (6A)

REPORT OF REFEREE

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 December 18, 2024, The Florida Bar filed its Complaint against Respondent Brian Robert Pingor. When Pingor failed to timely answer the complaint, the Bar moved for a default. Pingor did not oppose the motion for default, which the Referee granted during the January 22, 2025 case management conference. Before the final sanctions hearing, the Referee granted Judge Kimberly Todd's Motion to Quash the subpoena Pingor served on her and granted—without opposition—the Bar's Request for Judicial Notice.

On March 21, 2025, a final hearing was held. All items properly filed including pleadings, recorded testimony, exhibits in evidence, and the report of the referee constitute the record in this case and are forwarded to the Supreme Court of Florida.

II. FINDINGS OF FACT.

A. 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.

B. Narrative Summary of Case.

Because Pingor acquiesced to a default, "the allegations in the Bar's complaint [are] deemed admitted." *The Fla. Bar v. Porter*, 684 So. 2d 810, 813 (Fla. 1996). *See* Fla. R. Civ. P. 1.500(b). The following narrative contains a combination of the allegations deemed admitted and the evidence adduced from Pingor's testimony the Referee finds to be credible, unless otherwise noted.

In 2021, Pingor's mental health deteriorated due to a combination of a collapsing marriage, COVID-19, and alcohol. A series of events led to Pingor threatening suicide, resulting in a successful Baker Act petition against him.

On May 20, 2021, a Pinellas County judge issued a risk protection order against Pingor while he was confined on the Baker Act petition, prohibiting him from possessing firearms and ammunition. To comply with the order, Pingor agreed to transfer custody of his firearms to a friend, Barry Loy. Both Pingor and Loy signed an agreement acknowledging the transfer of seven firearms and 609 rounds of ammunition.

Soon after, Pingor contacted Loy and told him the risk protection order was no longer in effect, even though it was. Based on Pingor's deceit, Loy returned Pingor's firearms and ammunition. Shortly thereafter, Pingor told his girlfriend that he had a shotgun and threatened to kill himself and his ex-girlfriend. When police learned of this threat, they contacted Loy to ensure he still had the transferred firearms, discovering they had been returned to Pingor. Law enforcement then searched Pingor's residence and discovered 12 firearms, six of which were previously in Loy's custody.

Based on this conduct, Pingor was charged in June 2021 with violating a risk protection order,[1] a third-degree felony. *See* § 790.401(11)(b), Fla. Stat. (2021).

While on pretrial release for the felony, Pingor was arrested on August 31, 2021, for driving under the influence with property damage,[2] a first-degree misdemeanor. *See* § 316.193(3)(c)1., Fla. Stat. (2021). The new law offense violated the conditions of his pretrial release, which the trial court subsequently revoked. As a result, Pingor was confined in jail for about two weeks.

On November 9, 2021, Pingor pled no contest and was adjudicated guilty on a reduced charge of reckless driving in Hillsborough County. He was sentenced to 12 months of probation. That probation was successfully terminated in April 2022 after Pingor completed the attendant conditions, including compliance with an alcohol monitor. Later that year, the felony charge for violating a risk protection order was dismissed after Pingor completed pretrial intervention and diversion.

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[1] Case No. 21-CF-005233 (6th Jud. Cir., Pinellas Cnty., Fla.).

[2] Case No. 21-CT-010410 (13th Jud. Cir., Hillsborough Cnty., Fla.).

During this time, Pingor failed to notify the Bar of the criminal cases against him. First, he failed to notify the Bar 10 days after the felony information was filed against him, and he failed to provide a copy of the information. *See* R. Reg. Fla. Bar 3-7.2(c). Second, he failed to report his conviction on the charge of reckless driving, and he failed to provide a copy of the judgment to the Bar. *See* R. Reg. Fla. Bar 3-7.2(e).

After his stint in jail pending pretrial release, Pingor voluntarily entered inpatient treatment for mental health issues and alcoholism, spending two months in a residential facility. During this time, he was suspended from the Office of Regional Counsel, but his leave was eventually lifted and he began working again after treatment. Soon after, he was promoted to Circuit Chief. He now handles all Marchman Act cases in Pinellas County assigned to Regional Counsel.

During and following his inpatient treatment, he was prescribed medication and underwent counseling. Both of which, he testified, "have helped." He is not currently diagnosed with a mental health disorder. His counselors notified Florida Lawyers Assistance about his treatment, and though he was never formally under contract, FLA indicated that his residential treatment would be sufficient to comply with any obligations they would suggest.

On cross-examination, Pingor was questioned about his prior disciplinary and criminal history. In 1999, Pingor was arrested and later adjudicated guilty for misdemeanor battery against a girlfriend. After a party where he had been drinking, Pingor went to the girlfriend's house and pounded on the door. When she opened the door, he pushed her against the door and into the house, uninvited. He lied to law enforcement about the encounter later that evening.

After he was arrested, Pingor contacted the girlfriend and told her—incorrectly and untruthfully—that she could change her story because her statements to the deputy on the night of his arrest were not under oath. The girlfriend also revealed that Pingor had coached her to tell a story that would minimize the allegations against him—including that he lived at the apartment (he did not), that he had a key to the apartment (he did not), and he had not pushed her into the door (he did).

The conviction led to a Bar complaint. Pingor entered a conditional guilty plea for a consent judgment, where he admitted to these facts and consented to a judgment against him for violating Rules 3-4.3 and 4-8.4(d). *See The Fla. Bar v. Brian Robert Pingor*, Case No. SC01-254 (Fla. June 29, 2001). The Supreme Court approved the report adopting the stipulated consent judgment, reprimanded Pingor, and placed him on probation for three years, including FLA evaluation. Under the terms of that sanction, he eventually entered into a contract with FLA, which he successfully completed.

While the Referee generally finds Pingor credible and willing to engage with his history concerning the most recent arrests and violations, his answers to questions about his criminal and professional struggles around the turn of the century were evasive and dismissive of the allegations to which he had previously admitted. In particular, his answers reflected a disregard for the importance of honesty outside of a professional environment.

III. RECOMMENDATIONS AS TO GUILT.

I RECOMMEND THAT Respondent be found guilty of violating the following Rules Regulating The Florida Bar:

- **Rule 3-7.2(c)** (Procedures on Criminal or Professional Misconduct – Notice of Institution of Felony Criminal Charges).

- **Rule 3-7.2(e)** (Procedures on Criminal or Professional Misconduct – Notice of Self-Reporting by Members of Determination or Judgment of Guilt of All Criminal Charges).
- **Rule 4-8.4(b)** (Misconduct).

IV. CASE LAW.

I considered the following case law prior to recommending discipline:

> The purposes of attorney discipline are:
>
> (1) to protect the public from unethical conduct without undue harshness towards the attorney; (2) to punish misconduct while encouraging reformation and rehabilitation; and (3) to deter other lawyers from engaging in similar misconduct.

Fla. Bar v. Dupee, 160 So. 3d 838, 853 (Fla. 2015) (citing *Fla. Bar v. Maynard*, 672 So. 2d 530, 540 (Fla. 1996); *Fla. Bar v. Neu*, 597 So. 2d 266, 269 (Fla. 1992); *Fla. Bar v. Lord*, 433 So. 2d 983, 986 (Fla. 1983)). After considering those purposes, the "Florida Standards for Imposing Lawyer Sanctions provide a starting point for determining, in the absence of mitigating or aggravating circumstances, an appropriate discipline based on the duty violated and the potential or actual injury caused by the violation." *Fla. Bar v. Cox*, 794 So. 2d 1278, 1283 (Fla. 2001).

When a respondent has a similar disciplinary history for related conduct, the discipline must be more severe than originally imposed. *Fla. Bar v. Temmer*, 753 So. 2d 555, 560 (Fla. 1999). The Supreme Court "'also considers prior misconduct and cumulative misconduct as relevant factors, and deals more severely with cumulative misconduct than with isolated misconduct.'" *Fla. Bar v. Schwartz*, 382 So. 3d 600, 609 (Fla. 2024) (quoting *Fla. Bar v. Wolfe*, 759 So. 2d 639, 645 (Fla. 2000)).

In *Temmer*, the Supreme Court suspended a respondent for 91 days. She was already serving a 90-day suspension for drug-related misconduct when she was arrested again and criminally charged with possession of controlled substances. The 91-day suspension was imposed even though (1) the respondent was not found guilty of any criminal conduct; (2) the respondent had been diagnosed with bi-polar disease; and (3) the respondent had complied with all other conditions of her probation. *Temmer*, 753 So. 2d at 561.

Compare those circumstances with Pingor, who had previously been reprimanded for alcohol- and dishonesty-related criminal conduct, was charged with a felony (again involving alcohol and dishonesty), committed a misdemeanor while on pretrial release for the felony, and was adjudicated guilty of the misdemeanor.

Similarly, Erica Joanne Leiser was suspended for 91 days for cumulative disciplinary conduct following alcohol-related criminal violations. *See Fla. Bar v. Leiser*, No. SC21-1227 (Fla. Dec. 20, 2021). The Court found the suspension warranted for pleading no contest to refusing to give a breath test, after Leiser had failed to notify the Bar of a guilty DUI adjudication four years earlier.

Florida Bar v. German, No. SC19-2060 (Fla. Sep. 10, 2020), also resulted in a 91-day suspension for cumulative, alcohol-related criminal conduct. After pleading no contest to reckless driving (alcohol related), the respondent violated her probation by failing to complete the required substance abuse treatment program.

A respondent was suspended for 91 days in *Florida Bar v. Laing*, 695 So. 2d 299 (Fla. 1997), too. There, the Supreme Court disapproved of the originally recommended discipline because it was "in conflict with numerous cases wherein we imposed greater discipline due to the cumulative effect of multiple violations." *Id.* at 304.

V. STANDARDS FOR IMPOSING LAWYER SANCTIONS.

I considered the following standards prior to recommending discipline:

5.1 Failure to Maintain Personal Integrity.

(b) Suspension. 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.

7.1 Deceptive Conduct or Statements and Unreasonable or Improper Fees.

(b) Suspension. Suspension is appropriate when a lawyer knowingly engages in conduct that is a violation of a duty owed as a professional and causes injury or potential injury to a client, the public, or the legal system.

8.1 Violation of Court Order or Engaging in Subsequent Same or Similar Misconduct.

(b) Suspension. Suspension is appropriate when a lawyer has been publicly reprimanded for the same or similar conduct and engages in a further similar act of misconduct that cause[s] injury or potential injury to a client, the public, the legal system, or the profession.

Pingor's misrepresentations about the effectiveness of a risk protection order to recover firearms after threatening someone seriously and adversely reflects on his fitness to practice law. Combined with the allegations about his dishonesty with law enforcement in 1999, and his failures to report the most recent felony allegation and misdemeanor adjudication, he has demonstrated a pattern of deceptive conduct and shown a disregard for the integrity of the judicial system.

VI. AGGRAVATING AND MITIGATING FACTORS.

I considered the following factors prior to recommending discipline:

Aggravation.

3.2(1) Prior disciplinary offenses. In 2001, Pingor entered into a consent judgment for a public reprimand with three years of probation in SC2001-254, File No. 2000-10,002(6D).

3.2(3) Pattern of misconduct. Pingor's misconduct occurred in two separate criminal matters—the second offense occurring while he was on pretrial release for the first. He failed to report both. And the dishonesty involved in the current misconduct parallels dishonesty involved in the 1999 criminal investigation.

3.2(4) Multiple offenses. Pingor violated three rules in two separate criminal matters.

3.2(9) Substantial experience in the practice of law. Pingor has been licensed since June 1988.

Mitigation.

3.3(3) Personal or emotional problems. Pingor was going through substantial personal problems at the time of the offense.

3.3(7) Character or reputation. The court has received and finds credible statements of support for Pingor from many well-respected members of the community, including the Assistant State Attorneys who prosecuted Pingor. He is well respected for his critical work at the Office of Regional Counsel.

3.3(8) Physical or mental disability or impairment or substance-related disorder. Though not diagnosed with any impairment, the facts suggest a mental and substance-related impairment during the offenses.

3.3(10) Interim rehabilitation. Pingor put himself through inpatient substance abuse treatment and successfully complied with the arduous terms of drug court.

3.3(11) Imposition of other penalties or sanctions. Pingor served time in jail following his DUI arrest, and he has spent nearly $58,000 on substance abuse treatment.

3.3(12) Remorse. I find Pingor's testimony concerning remorse to be credible, and I find him to be remorseful for the conduct and how it affected others.

VII. 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. A 91-day suspension from the practice of law.

B. A period of probation for three years, with the probation to include (1) the completion of an evaluation with Florida Lawyers Assistance, Inc. within 30 days of the order of the Supreme Court of Florida, and (2) following all recommendations of FLA.

C. Payment of The Florida Bar's costs in these proceedings.

VIII. PERSONAL HISTORY, PAST DISCIPLINARY RECORD.

Prior to recommending discipline pursuant to Rule 3-7.6(m)(1)(D), I considered the following:

A. Personal History of Respondent:

Age: 63.

Dated Admitted to the Bar: June 16, 1988.

B. Aggravating Factors: prior disciplinary offenses; pattern of misconduct; multiple offenses; and substantial experience in the practice of law.

Prior Discipline: *The Fla. Bar v. Brian Robert Pingor*, Case No. SC01-254 (Fla. Aug. 23, 2001): Reprimanded and placed on three years' probation for violating Rules 3-4.3 and 4-8.4(d).

C. Mitigating Factors: personal or emotional problems; character or reputation; physical or mental disability or impairment or substance-related disorder; interim rehabilitation; imposition of other penalties or sanctions; and remorse.

IX. 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:		
	Court Reporter's Fees		$0.00
	Bar Counsel Travel		$0.00
	Investigative Costs		$0.00
	Copies		$0.00
		Subtotal	$0.00
B.	Referee Level:		
	Court Reporters' Fees		$600.00
	Administrative Costs		$1,250.00
		TOTAL	$1,850.00

It is recommended that such costs be charged to Respondent and that interest at the statutory rate shall accrue and be deemed delinquent 30 days after the judgment in this case becomes final unless paid in full or otherwise deferred by the Board of Governors of The Florida Bar.

DATED this 5th day of May, 2025.

<u>/s/ J. Logan Murphy</u>
J. Logan Murphy, Referee

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original of the foregoing Report of Referee has been emailed to The Honorable John A. Tomasino, Clerk, Supreme Court of Florida, at e-file@flcourts.org, and mailed to 500 South Duval Street, Tallahassee, Florida 32301; a copy has been emailed to Michelle Lopes Robertson, Bar Counsel, The Florida Bar (mrobertson@floridabar.org); a copy has been e-mailed to Benjamin DeBerg, Counsel for Respondent (bdeberg@yahoo.com; deberglaw@gmail.com); and a copy has been e-mailed to Patricia Ann Toro Savitz, Staff Counsel, at her Record Bar address and e-mail address, psavitz@floridabar.org, The Florida Bar, 651 East Jefferson Street, Tallahassee, Florida 32399-6584, this 5th day of May, 2025.

/s/ J. Logan Murphy
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