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The Florida Bar v. Geneva Carol Forrester

LADIES AND GENTLEMEN, THE FLORIDA SUPREME COURT.PLEASE BE SEATED.

CHIEF JUSTICE: TO DAY I S AN HIST ORIC DAY , BECAUSE THOSE OF YOU H ERE AND THOSE OF YOU WATCHING THROUGH EITHER THE INTERNET OR O N TELEVISION , WIL L H AVE HE ARD OUR MARSHAL G IVE HIS LAST OFFICIAL HEARING CALL FOR A COURT S E SSION . FORTUNATELY WE ARE HAVING A WONDERFUL CEREMONY FOR MARSHAL BAR NE S THIS AFTERNOON AT 2:30, AND WE HAVE SOME , THE INDUCTION ON MONDAY , B UT A LL OF U S HERE W ILL B E JOINING I N HONORING YOU , MA RSHAL BA RNES , FOR 15 YEARS OF FAITHFUL AND DEDICATED SERVICE. ALL RI GHT. THE COURT WILL CALL THE FIRST CASE , FLORIDA BAR VERSUS GENEVA CA ROL FORRESTER.

MAY IT PLEASE THE COURT. GOOD MORNING, YOUR HONORS. MY NAME IS CARLOS L EON , ANDI HAVE THE PRIVILEGE OF REPRESENTING THE FLORIDA BARIN THESE CONSOLIDATED MATTERS BEFORE YOU TODAY.IN THE INITIAL DISCIPLINE CASE , A FTER A TRIAL ON THE MERITS, THE REFEREE FO UND THAT MS. FORRESTER HAD VIOLATED 4-8.4-D, AND RECOMMENDED A ONE-YEAR SUSPENSION. IMMEDIATELY THEREAFTER, MS. FORRESTER FILED FOR REHEARING AND , AFTER ENTERTAINING ARGUMENT FROM THE PARTIES , THE REFEREE CHANGED HIS RECOMMENDATION AND RECOMMENDED A PUBLIC REPRIMAND.

NOW, THIS IS THE CASE INVOLVING WHAT SITUATION?

THIS WAS THE CASE , JUDGE , WHERE IT WAS AL LEGED IN OURCOMPLAINT THAT MS. FORRESTER FILED TWO M O TIONS IN A TRIAL MATTER, WHERE SHE REPRESENTED THE MOTHER, AND MADE MADE THE ALLEGED DISPARAGING REMARKS ABOUTTHE FATHER.

THAT'S CORRECT. SHE ALLEGED THAT MR . FERGUSON WAS A CON VICTED PEDOPHILE , C H ILD MOLESTER AND FELON, WHEN IN FACT HE HAD PLED TO A MISDEMEANOR AND THE REFEREE SAID SHE WAS WELL AWARE OF THAT FACT BEFORE SHE FILED THAT PLEADING. AFTER THE REFEREE RECOMMENDED A PU BLIC REPRIMAND , MS. FORRESTER , BY ORDER OF THIS COURT WAS SUSPENDED FOR 60 D AYS. IN A SEPA RATE CASE , CONSEQUENTLY, THE FLORIDA BAR FILED FOR RE HEARING ANDASKED THE REFEREE TO S U SPEND MS. FORRESTER FOR ONE YE AR, IN LIGHT OF THE PREVIOUS DISCIPLINE. THE REFEREE , NEVERTHELESS , DENIED THE FLORIDA BAR'S MOTION FOR REHEARING AND REAFFIRMED HIS RECOMMENDATION OF A PUBLIC REPRIMAND.

WELL , LE T'S J UST, AGAIN, S O WE, BECAUSE YOU HAVE A SHORT PERIOD OF TIME, SO WE CAN GET THIS IN CONTEXT , WE HAVE , WHERE AR E WE NO W? IN OTHER WORDS, T HERE WAS , THERE IS ALSO AN OTHER CASE THAT INVO LVES THE ALLEGATION THAT MS. FORRESTER WAS PRACTICING LAW D URING A SUSPENSION, AND THEN THERE WAS A PREVIOUS SUSPENSION THAT THE COURT IMPOSED , OFHOW LONG WAS THAT SUSPENSION?

THE PREV IOUS SUSP ENSION , YOUR HONOR, WAS FOR 60 DA YS. D URING THE PENDENCY OF THAT SUSPENSION , THE FL ORIDA BAR LEARNED THAT MS. FORRESTER HAD CONTINUED T O PRACTICE LAW AND FILED THE ALSO PENDING CASE, ASKING THIS COURT TO ISSUE ITS ORDER TO SHOWCASE AND SHOW CAUSE AND DISBAR MS. FO RRESTER FOR FLAGRANT VIOLATIONS.

ARE THESE CASES CONSOLIDATED? IN OTHER WORDS, WHAT ARE YOU HEARING FOR?

YOUR HONOR, WE ARE HERE ON BOTH CASES ACTUALLY. IN THE FIRST CASE, WE WOULD CAN THE WE WOULD ASK THE COURT TO IMPOSE A ONE-YEAR SUSPENSION BASED UPON

LET ME ASK YOU A QUESTION. DO YOU AGREE THAT THAT PARTICULAR SENTENCE, THE PRIOR SENTENCE, SUBSECTION C, THERE IS A DEFINITE REQUIREMENT THAT THERE BE A FINDING OF INTENT.

ABSOLUTELY, AND

YOU DO AGREE THAT THE TRIAL, THE REFEREE HERE DID NOT MAKE THAT FINDING.

THAT'S CORRECT.

AND IS THE BURDEN ON THE BAR AND UNDER THESE CIRCUMSTANCES, WOULD BE TO DEMONSTRATE THAT THERE IS NO EVIDENCE TO SUPPORT WHAT THE REFEREE HAS FOUND.

THAT'S CORRECT, JUSTICE LEWIS.

AND IN THIS CASE, IS THERE EVIDENCE THAT, ALTHOUGH YOU MAY OR MAY NOT BELIEVE IT, THAT THERE WAS A PARALEGAL THAT WAS INSTRUCTED TO FIND OUT OR SOMEONE WITHIN HER ORGANIZATION, INSTRUCTED TO FIND OUT ABOUT THIS SITUATION AND REPORT IT BACK TO HER AND REPORTED BACK TO HER THAT, IN FACT, YES, THERE WAS A FELONY CHARGE, AND IT WAS NOT UNTIL AN INVESTIGATOR WAS SENT DOWN TO ACTUALLY RETRIEVE THE DOCUMENTS, AND THAT IS THE OTHER SIDE OF THE STORY. IS THAT A FAIR ACCOUNTING OF WHAT THE EVIDENCE WOULD SHOW?

THAT IS ONE OF THE ASPECTS OF WHAT THE EVIDENCE DID SHOW, JUSTICE LEWIS. HOWEVER, THERE WAS OTHER EVIDENCE TO THE EFFECT THAT MS. FORRESTER ATTENDED A DEPOSITION IN 1998, WHERE SHE HERSELF, HEARD

AGAIN, THAT MAY BE DISPUTED EVIDENCE, BUT TO GET TO THE POINT, WHERE THE REFEREE DID NOT FIND INTENT, YOUR BURDEN IS NOT TO SHOW THAT THERE IS CONFLICTING EVIDENCE. YOUR BURDEN IS MUCH HIGHER, IS IT NOT?

THAT'S CORRECT, JUDGE. WHAT THE REFEREE SPECIFICALLY FOUND WAS THAT, WHEN MS. FORRESTER FILED HER MOTION, SHE WAS AWARE THAT THE CHARGE HAD BEEN, IN FACT, REDUCED, AND NEVERTHELESS SHE FILED HER MOTION, MAKING THE FALSE STATEMENTS, SO WE BELIEVE THE REFEREE'S OWN FINDINGS ARE INCONSISTENT WITH HIS RECOMMENDATION TO THIS COURT.

DO YOU BELIEVE THAT INHERENT IN THE FINDINGS OF THE REFEREE, THERE IS THIS FINDING OF INTENT THAT AUTOMATICALLY DEMONSTRATES VIOLATION OF SUBSECTION C, 4-8.4 C.

JUSTICE LEWIS, WE ABSOLUTELY BELIEVE THAT THE REFEREE FOUND THAT SHE WAS WELL AWARE WHEN SHE FILED THE PLEADING AND THAT NOT ONLY WAS 4-8.4 D VIOLATED BUT NECESSARILY 4-8.4 C MUST HAVE BEEN VIOLATED.

WAS THIS BROUGHT TO THE REFEREE'S ATTENTION?

IT WAS, YOUR HONOR.

AND THE REFEREE WAS AWARE OF WHAT HE OR SHE WAS DOING UNDER THESE CIRCUMSTANCES.

THAT'S CORRECT.

AND SPECIFICALLY REJECTED THAT ARGUMENT .

THAT IS CORRECT, YOUR HONOR. CONTINUING ON , JUDGE, BECAUSE OF THE RECOMMENDATION OF A PUBLIC REPRIMAND , THE FLORIDA BAR FILED THIS INSTANT APPEAL , ARGUING TO THIS COURT THAT THE REFEREE'S OWN FINDINGS ARE INCONSISTENT WITH HIS RECOMMENDATION, AND THAT THE REFEREE , ALSO , ERROR BY FAILING TO HAVE CONSIDERED THE 60 -DAY SUSPENSION IN TERMS OF PRIOR

IF YOU ARE SEEKING DISBARMENT AND THE DISBARMENT ISSUE RELATES TO THE , WHAT WAS GOING ON DURING THE 60-DAY SUSPENSION , CAN WE JUST, LET'S LOOK AT THAT ISSUE AS TO WHETHER

ABSOLUTELY. I DIDN'T WANT THE COURT TO GET THE IMPRESSION THAT WE WERE ABANDONING THE INITIAL CASE. WE ARE ACTUALLY HERE ON BOTH CASES. TURNING, THEN , TO THE CONTEMPT CASE, YOUR HONORS , WHAT HAPPENED WAS THAT THIS COURT ISSUED ITS ORDER SUSPENDING MS. FORRESTER FOR 60 DAYS. THE REALITY IS THAT MRS. FORRESTER HIRED A BRAND NEW , VERY YOUNG AND COMPLETELY INEXPERIENCED ASSOCIATE AND BROUGHT HIM ON INTO HER FIRM, IN ORDER THAT SHE MIGHT CONTINUE TO ENGAGE NOW, IN THE UNAUTHORIZED PRACTICE OF LAW , USING MR . CULBREATH AS A CONDUIT. THE EVIDENCE THAT THE REFEREE FOUND IN THE CONTEMPT CASE WAS VERY CLEAR. MR . CULBREATH WAS YOUNG. HE WAS VERY INEXPERIENCED. EVERYTHING HAD TO BE APPROVED BY MRS. FORRESTER. ALL PLEADINGS , ALL CORRESPONDENCE, ALL CONTACT WITH CLIENTS .

WHAT DID , WHAT , SPECIFICALLY , IS THE BAR ALLEGING AND THAT THE BAR DEMONSTRATED THAT SHE DID, WHAT CONDUCT OF MRS. FORRESTER'S WAS THERE, THAT INDICATES THAT SHE ACTUALLY PRACTICED LAW DURING THIS SUSPENSION PERIOD?

JUSTICE QUINCE, WE PUT ON EVIDENCE, AND THE REFEREE FOUND SPECIFICALLY EIGHT DIFFERENT AREAS. THE REFEREE FOUND THAT MR . CULBREATH, THE YOUNG , INEXPERIENCED ASSOCIATE , MET WITH EXISTING AND PROSPECTIVE CLIENTS, SPECIFICALLY AT MRS. FORRESTER'S DIRECTION. THE REFEREE EQUALLY FOUND THAT MR . CULBREATH DRAFTED P LEADINGS AND LET TERS AT MRS. FORRESTER 'S DIRECTION. AND THAT THEY WOULD NOT AND COULD NOT LE AVE THE OFFICE WITHOUT HER EXPRESS APPROVAL. IN OTHER WORDS, HE COULD NOT SIGN ANYTHING AND SEND IT OF HIS OWN VOLITION . PLEADINGS HAD TO BE PREPARED AND LET TERS HAD TO BE DRAFTED. THEY WERE SUBMITTED TO MRS. FORRESTER FOR REVISION. EXTENSIVE REVISIONS WERE MADE. FINALLY , MR . CULBREATH WOULD SIGN THEM AND SEND THEM OUT.

DID THE REFEREE ALSO FIND THAT MRS. FORRESTER HAD, I THINK , TELEPHONE CONVERSATION WITH A CLIENT AND BILLED \$350 AN HOUR?

YES.

FOR BUSINESS CONSULTING?

YES , JUSTICE CANTERO , THAT'S CORRECT. MRS. FORRESTER HAD AN ONGOING PREEXISTING RELATIONSHIP WITH A CLIENT WHOSE LAST NAME IS DEGEORGE. MS. FORRESTER WAS REPRESENTING HER IN A TRUST PROBATE MATTER THAT INVOLVES CERTAIN PROPERTIES. DURING MS. FORRESTER'S PERIOD OF SUSPENSION , MRS. FORRESTER ENGAGED IN AT LEAST ONE TELEPHONE CONVERSATION WITH THIS CLIENT, CONCERNING THE PROPERTY. MRS. FORRESTER BILLED THAT AS "BUSINESS CONSULTATION" BUT SHE BILLED IT EXACTLY AS, I AM SORRY , EXACTLY AT THE SAME RATE THAT SHE HAD BILLED BEFORE , WHEN SHE REPRESENTED DEGEORGE AS AN ATTORNEY.

WHAT WAS THE EVIDENCE, IF THERE WAS ANY, ABOUT WHETHER MS. FORRESTER HAD EVER CHARGED OTHER CLIENTS BEFORE HER SUSPENSION, FOR BUSINESS CONSULTING?

THERE WAS NO EVIDENCE TO SUPPORT THAT ALLEGATION. IN LIGHT OF THE FACTS, THERE WAS NO EVIDENCE TO SUPPORT THAT MS. DEGEORGE HAD EVER REQUIRED MS. FORRESTER TO BE A BUSINESS CONSULTANT BEFORE.

DID MR. TOZIN OR ANY OF HER OTHER ATTORNEYS PROVIDE EVIDENCE WITH THIS FOLLOW-UP PRACTICE OF LAW, PARTICULARLY WITH REGARD TO THE ALLEGATIONS THAT HER ATTORNEY HAD TRIED TO WORK WITH THE BAR, SO THIS WAS CONDUCTED IN A PROPER WAY? THAT SORT OF SEEMS TO BE THE UNDERCURRENT. DID MR. TOWNS AND? I BELIEVE MR. TOZIN. I BELIEVE THERE WAS SOMEONE ELSE WHO REPRESENTED HER, WAS THERE NOT?

YES. THERE WAS A PREVIOUS ATTORNEY, BUT, YES, EVIDENCE WAS PUT ON BEFORE THE REFEREE THAT MRS. FORRESTER DID INDEED ATTEMPT TO COMPLY WITH THIS COURT'S ORDER OF SUSPENSION.

FROM MR. TOZIN OR FROM THE RESPONDENT?

FROM THE RESPONDENT, HERSELF, AND THERE WERE WITNESSES WHO TESTIFIED IN HER DEFENSE THAT, WHEN NEW CLIENTS CAME INTO THE OFFICE, MS. FORRESTER DID MAKE IT A POINT TO BE OUT OF THE OFFICE. THERE WAS TESTIMONY THAT

I AM REFERRING SPECIFICALLY TO THE ASPECT THAT CERTAIN THINGS WERE APPROVED BY THE BAR OR AT LEAST I BELIEVE THERE IS SOME TESTIMONY WITH REGARD TO CHECKING WITH THE BAR THAT, YES, IT IS OKAY TO DO THIS. DID THAT COME FROM MR. TOZIN OR SOME OF THESE OTHER, HER COUNSEL? THAT IS WHAT I AM TRYING TO GET TO, AS OPPOSED TO THE RESPONDENT OR HER EMPLOYEES.

YES, JUSTICE LEWIS. I BELIEVE WHAT YOUR HONOR IS REFERRING TO IS THE ISSUE OF THE SIGNS, WHICH THE FLORIDA BAR DID NOT PROCEED ON THAT ISSUE AT TRIAL BECAUSE THERE APPEARS TO BE SOME CONFUSION. FOR WHATEVER REASON, WHEN THE FLORIDA BAR HEADQUARTERS OFFICE ISSUED A LETTER TO MS. FORRESTER, ADVISING HER OF THE TERM OF HER SUSPENSION, WE OMITTED THE SENTENCE ABOUT REMOVAL OF SIGNS. MR. TOZIN, WHO SEEMS TO BE EXPERIENCED IN THESE MATTERS, CALLED CHIEF CLERK BARRY RIGBY, THE CHIEF IN HEADQUARTERS OFFICE AND ASKED HIM ABOUT THAT. IT IS NOT CLEAR WHAT THE CONVERSATION WAS. THERE IS THE DEPOSITION OF MR. RIGBY, WHO DID SAY I DID TELL THEM TO REMOVE THE SIGN, SO AT SOME POINT MS. FORRESTER DID TAKE THEM DOWN AND THEN BASED ON THE CONVERSATION WITH BARRY RIGBY, THE SIGNS WERE PUT BACK UP. HOWEVER, BECAUSE OF THAT CONFUSION, THE FLORIDA BAR DID NOT SPECIFICALLY PROCEED ON THAT ALLEGATION.

IS THAT THE ONLY ALLEGATION THAT COUNSEL HAD DISCUSSIONS WITH THE BAR ABOUT ON THIS RECORD THAT YOU ARE AWARE OF?

AS FAR AS I AM AWARE, YES.

I AM TRYING TO UNDERSTAND HERE, BECAUSE CLEARLY DISBARMENT IS THE MOST SERIOUS OF THE POSSIBLE SANCTIONS. AND WE HAVE A 60-DAY SUSPENSION, ALTHOUGH WE HAVE A HISTORY OF OTHER DISCIPLINARY ACTIONS. HERE IS SOMEONE WHO IS A SOLO PRACTITIONER, AND I KNOW WE ADDRESSED THIS ISSUE IN RECENT BAR AMENDMENTS, BUT IT IS VERY DIFFERENT, WHEN A SOLO PRACTITIONER IS SUSPENDED FOR 60 DAYS THAN WHEN SOMEBODY WHO IS EITHER A FIRM AND CERTAINLY A LARGE FIRM, SO SHOULDN'T WE CONSIDER THE ATTEMPTS TO COMPLY WITH THE BAR'S CONDITIONS, IN DETERMINING WHETHER TO IMPOSE THIS, THE ULTIMATE SANCTION? HOW WOULD YOU RESPOND TO THAT?

ABSOLUTELY , JUSTICE PARIENTE. WE UNDERSTAND AND WERE SENSITIVE TO THE PROBLEMS THAT CAN BE CA USED FOR SOLO PRACTITIONER S UNDER AN ORDER OF SUSPENSION. HOWEVER , I THINK THE FLORIDA BAR IS A MATURE EN OUGH ORGANIZATION TO DISTINGUISH BETWEEN UNINTENTIONAL NEGLIGENT AND ACCIDENTAL ACTS, WHICH WOULD IND ICATE THE UNAUTHORIZED PRAC TICE OF LAW , AND WHAT THIS CASE PRESENTS, W HICH I S A FLAGRANT VI OLATION OF THIS COURT'S ORDER. THIS WAS NOT A N UNINTENTIONAL O R NEGLIGENT ENGAGEMENT IN THE UNAUTHORIZED PRACTICE OF L AW. WHAT MS. FORRESTER SPECIFICALLY DID WAS HIRE AN ASSOCIATE WITH LITTLE TO NO EXPERIENCE, S O THAT SHE COULD , IN E FFECT , CONTIN UETO RUN HER PRACTICE BUT USE HIS N AME IN EVERY RESP ECT , EXACTLY THE WAY SHE HAD DONE BEFORE HER SUSPENSION BECAME EFFECTIVE.THE ONLY THIN G SHE DID NOT DO , OBVI OUSLY , WERE SIGN LETTERS AS AN ATT ORNEY , SIGN PLEADINGS AS AN ATTO RNEY , AND ATTEND COURT. BUT THE VERY REALITY IS THAT SHE DID EVERYTHING ELSE THAT IS CONNE CTED WITH THE PRACTICE OF LAW .

WOULD YOU , I SE E YOU AREIN YOUR REBUTTAL, SO I WANT YOU , IF YOU WOULD TOUCH ON JUST BRIEFLY, THIS LETTER THAT ALLEGE LY MS. FORRESTER W ANTED THE A S SOCIATE TO SIG N. WAS THAT, I ASSUM E THAT MRS. FORRESTER WAS SUPPOSED TO HAVE DON E THIS LETTER PRIOR TO THE T IME THAT THE PERSON WAS EN GAGED OR WHAT IS THE SITUATION?

ABSOLUTELY , JUSTICE QUINCE. WHEN THEY DISBARRED O R SUSPENDED AN ATTORNEY THAT IS EMPL OYED IN THE LAW FIRM, OUR RULES RE QUIRE THAT NOTIFICATION BE GIVEN TO THE FLORIDA BAR, IN ORDER T O MONITOR COMPLIANCE. THE TIME LINESS OF THE LETTER IS NOT SO MUCH THE ISSUE, BECAUSE TH ROUGH A N OVERSIGHT IT CAN BE A CASE THAT THELETTER MIGHT BE DELAYED. WHAT IS PROBLEMATIC IN THIS CASE AND WHAT IS F URTHER EVIDENT OF MS. FORRESTER'S ATTEMPT TO MISLEAD THEFLORIDA BAR AND THIS COURT , WAS THAT , UPON HER FINDINGOUT THAT THE FLORIDA BAR WAS INVESTIGATING HER CONTINUED PRACTICE OF LAW , SHE CAUSED A LETTER TO BE D RAFTED FOR MR . CULBREATH 'S SIGN ATURE , WHICH INDI CATED THAT SHE SERVED MERELY AS A PARALEGAL , WITHIN HIS O FFICE. AND YOUR HONORS , NOTHING COULD HAVE BEEN FU RTHER FROM THE TRUTH. MR. CULBREATH DID NOT RUNTHAT OFFICE.HE WAS NOT IN CONT ROL OF ANYTHING IN THAT OFFICE , AND THE VERY ACT OF MS. FORRESTER'S ATTEMPT TO GET HIM TO SIGN AN UNTRUTHFUL LETTER , I THINK , SPEAKS TO THE ISSUE OF DISBARMENT AND HER FURTHER ATTEMPT TO MIS LEAD THEFLORIDA BAR AND THIS COURT.

WOULD YOU JUST DISCUSS BRIEFLY ON SIGNING ON BA NK ACCOUNTS. DOES THE BAR TAKE THEPOSITION THAT, IF SOMEONE IS SUSPENDED IN A SOLO PRACTICE, THAT NO ONE CAN SIGN CH ECKS FOR THAT BUSINESS.

TO A VERY LI MITED DEG REE , NONREHABILITATIVE SUSPENSIONS MAY REQUIRE THEATTORNEY WHO IS SUSPENDED TO CONTINUE TO OBSERVE SOME - - EXERT SOME CONTROL OVER THE BANKING AS PECTS OF THE BUSINESS.

HOW ABOUT BILLING THAT MAY HAVE BEEN COMP LETED , AT W ORK COMPLETED PRIOR BUT UNFORTUNATELY WE DON'T O PERATE AS SOME PHYSICIANS , D EMAND PA YMENT WHEN SERVICES ARE RENDERED, SO YOU DO HAVE SOME BILL ING. CAN THEY DO THAT OR WHAT IS THE SITUATION WITH THAT, F ROM THE BAR

AGAIN JUSTICE LEWIS , WE WOULD HAVE TO LOOK ON A CASE-BY-CASE BA SIS AND MA KEA DETERMINATION. I THINK THE REALITY IS AND THE REASON ABLE POSITION WOULD BE THAT , TO A VERY LIMITED DEGR EE, CERTAIN OF THOSE THINGS WOULD NOT BE INAPPROPRIATE. WHAT WE HAVE IN THIS C ASE , THOUGH, IS A FLAGRANT DISREGARD.

REALLY THIS B OILS DO WN TO THE YOUNG LAW YER BEING HIRED TO COME IN THE OFFICE , TO OPERATE AS A SH ADOW KIN D OF OPERATION.

ABSOLUTELY .

OK AY.

CHIEF JUSTICE: YOUR TIME IS EXPIRED , AND WE WILL SEE IF WE GIVE YOU A MINUTE OR SO FOR REBUTTAL, IF IT IS NECESSARY.

THANK YOU .

MS. FORRESTER.

GOOD MORNING. TO BEGIN WITH

CHIEF JUSTICE: WHY DON'T YOU ANNOUNCE YOUR APPEARANCE , PLEASE.

I AM GENEVA FORRESTER. TO BEGIN WITH , ON THE LESSER CHARGE, WHICH WAS NUMBER SC 01-1819, YOUR HONORS , THIS WAS THE GENTLEMAN THAT SAID I HAD UPSET HIM BECAUSE HE WAS CALLED A FELON , WHEN HE HAD PLED TO A LESSER-INCLUDED OFFENSE. AND I WOULD LIKE TO BRING THE COURT UP-TO-DATE ON THE DATES INVOLVED IN THIS , TO INDICATE THE FLAGRANT ABUSE BY THE FLORIDA SUPREME COURT , BY THE FLORIDA BAR, IN FILING THIS CHARGE. THE DATES ARE SIGNIFICANT . THE PLEA WAS REDUCED ON DECEMBER 1 OF 1998. I WROTE , I FOUND OUT OF THAT ON THE DEPOSITION, DECEMBER 1 , 1998 . I WROTE A LETTER TO THE CLERK , ASKING THE M TO CONFIRM THAT, ON DECEMBER 2 , THE NEXT DAY . EVIDENTLY , WE RECEIVED A RESPONSE FROM THE CLERK, DECEMBER 10 OF 1998. WE DID NOT FILE OUR MOTION UNTIL TWO YEARS LATER. IT WASN'T TWO YEARS. IT WAS A YEAR AND A COUPLE OF MONTHS LATER. THAT WAS WHEN I ASKED MY PARALEGAL , PETER CARDINAL, WHO WORKED FOR TEN YEARS FOR THE STATE ATTORNEYS OFFICE

WHAT WAS THE ANSWER THAT YOU GOT FROM THE CLERK'S OFFICE?

THEY INDICATED THAT HE HAD BEEN.

PLED TO A MISDEMEANOR.

TO A LESSER-INCLUDED OFFENSE.

RIGHT .

I DID NOT CHECK THE FILE. I ASKED MR . CARDINAL . THERE WAS ISSUES GOING ON IN THIS CASE , WHICH WERE, HAD HE VIOLATED HIS PROBATION.

WHEN DID YOU WRITE THE LETTER OR WHATEVER DOCUMENT IT WAS , THAT INDICATED THAT HE WAS A CHILD MOLESTER OR , AND THAT HE WAS A FELON, NOT A CHILD MOLESTER BUT A FELON AND A STALKER. THOSE KINDS , WHEN WAS THAT LETTER WRITTEN?

IT WAS WRITTEN IN DECEMBER 2 , 1998.

I THOUGHT THE MOTIONS IN WHICH YOU CALLED HIM A PEDOPHILE AND CONVICTED FELON, WERE FILED IN 2000.

YES.

TWO YEARS AFTER YOU LEARNED THAT HE WAS NOT A CONVICTED FELON .

YES.

BUT WHAT YOU JUST SAID.

YES.

SO NO W

THERE WAS A PERIOD, THE REASON WE WERE CHECKING IS BECAUSE THERE WAS DISCUSSION DURING THIS PERIOD OF TIME OF WHETHER HE VIOLATED HIS PROBATION .

OKAY. SO WHAT IS THE

HE WOULD HAVE GONE BACK TO BEING , AND HIS CHARGES WOULD HAVE BEEN INCREASED TO BEING A FELON AGAIN .

WE ARE CHECKING HIS STATUS .

IF YOU VIOLATE YOUR PROBATION , GENERALLY , WHAT HAPPENS IS YOU ARE, THEN , GIVEN WHATEVER SENTENCE YOU WOULD HAVE BEEN GIVEN, AS OPPOSED TO GIVEN THE PRIVILEGE OF PROBATION, SO HOW DOES THAT CHANGE , EVEN IF HE VIOLATED HIS PROBATION , HOW DOES THAT CHANGE HIM FROM BEING CONVICTED OF A MISDEMEANOR TO BEING CONVICTED AFTER FELONY?

HE WOULD HAVE BEEN RECHARGED .

SO WAS HE?

WE , ACCORDING TO WHAT PETER SAID , I DIDN'T REMEMBER. THAT IS WHY I WAS ASKING IT TO BE CHECKED. MY CLIENT INDICATED , AND SHE FILED HER PLEADINGS UNDER OATH THAT SHE WAS HE WAS A FELON THAT HE WAS A FELON. I ASKED PETER CARDINAL TO CHECK. BEFORE I FILED MY PLEADINGS ON FEBRUARY, SHE SAID , MY CLIENT UNDER OATH, HAD FILED PLEADINGS AND SIGNED THEM , AND HER HUSBAND HAD SIGNED PLEADINGS UNDER OATH, AND MY CLIENT HAD, ALSO , , MY CLIENT'S HUSBAND HAD ALSO FILED FOR INJUNCTIONS WITH THE STATE ATTORNEY , I MEAN, IN THE CRIMINAL CASES.

RATHER THAN GETTING INTO ALL OF THESE DETAILS , WHAT IS YOUR POINT ABOUT THE BAR?

THEY , THE POINT WAS , YOUR HONOR , THAT WE, IN FACT , THE TIMING SITUATION HERE IS THAT WE , THAT IN THIS CASE , WE FILED THESE PLEADINGS. THEY KNEW THAT , I AM GETTING THERE. I AM SORRY TO GET OFF ON THAT TRACK. BUT WE INFORMED THEM. THEY BROUGHT IN TESTIMONY THAT WE HAD HARMED THIS GENTLEMAN, AND THE ONLY TESTIMONY HE TESTIFIED THAT HE HAD BEEN HARMED BY , WAS AT AN INJUNCTION HEARING, WHERE HE SAID HE , WHAT HURT HIM MOST WAS NOT THIS ISSUE OF WHETHER HE WAS CALLED A FELON OR A PEDOPHILE. HE SAID HE WAS HURT AT THE INJUNCTION HEARING, AND THAT WAS THE ONLY TESTIMONY GIVEN THAT HE WAS HURT IN THE INJUNCTION HEARING. THAT WAS A SWEORN TESTIMONY OF HIS DAUGHTER, AND HE SAID IT WAS BEING CALLED PEDOPHILE.

OKAY.

AND THAT INJUNCTION HEARING , YOUR HONOR , WAS IN 1998.

OKAY. LET ME , BECAUSE YOUR TIME , YOU ONLY HAVE A LIMITED AMOUNT OF TIME.

I AM SORRY.

I THINK , WE NEED TO GET TO THE POINT OF WHETHER, IN FACT , YOUR , YOU WERE PRACTICING LAW AFTER YOU WERE SUSPENDED.

I AGREE, YOUR HONOR.

RIGHT.

JUSTICE WELLS, THE ONLY POINT WAS THAT, WHEN THESE, WHEN THIS, THIS WAS, THEY TESTIFIED THE DATE IN THIS HEARING, WHEN ALL OF THIS OCCURRED, THEY KNEW THE TESTIMONY IN THAT UNDERLYING CASE, WAS FALSE. BECAUSE WHEN I FILED MY PLEADINGS IN FEBRUARY OF 2000, HE WAS EMBARRASSED TWO YEARS BEFORE, ALLEGEDLY, AND IT WAS IN COURT, BEING CALLED A PEDOPHILE. AND MY PLEADINGS HADN'T EVEN BEEN FILED. SO THAT WAS THE ONLY TESTIMONY, AND HE SAID IT WAS IN THAT INJUNCTION HEARING, AND THAT WAS UNDER SWORN TESTIMONY OF THE VICTIM OF THIS PEDOPHILE. YEAH. PEDOPHILE PEDOPHILIA, PEDOPHILE.

DO YOU THINK YOU CAN FILE SOMETHING IN COURT IF IT IS NOT GOING TO HARM SOMEBODY? WHAT WAS THE REASON FOR CALLING HIM A PEDOPHILE IN THE PLEADINGS THAT YOU FILED?

THE PLEADINGS

WEREN'T THEY IN A CUSTODY DISPUTE?

THE PLEADINGS WERE FILED TO PROTECT THESE CHILDREN FROM VISITING THEIR GRANDFATHER. SO THAT THE COURT, THE INVESTIGATOR WOULD NOT, IN FACT, HARM HIM.

IT WAS IMPORTANT FOR THE COURT TO KNOW THE TRUE STATUS, SO NOT TO MISREPRESENT SOMETHING.

NO. HE WAS A PEDOPHILE, AND IT WAS IMPORTANT THAT THIS JUDGE NOT ALLOW THAT VISITATION. THIS HAS BEEN IN TWO DIFFERENT STATES, WITH PEOPLE MOVING AROUND, AND IT

LET'S GET BACK TO JUSTICE WELLS'S QUESTION, BECAUSE YOU WERE UNDER SUSPENSION, AND WASN'T IT A MATTER THAT THE COURT FOUND THAT YOU HAD ACTED DISHONESTLY IN HIDING PAPERS DURING A DEPOSITION, CORRECT? THAT WAS THE 60-DAY SUSPENSION? THAT WAS ALREADY

YES, AND I DID NOT DO THAT, YOUR HONOR.

BUT THAT IS ALREADY, THE COURT UPHELD THE FINDINGS

AND THAT WAS, THOSE PAPERS BELONGED TO ME, AND AT THAT HEARING, I DON'T WANT TO, I THINK THAT CASE HAS BEEN REOPENED, BUT THE PAPERS ARE IN THE COURT FILE, AND THEY WILL SHOW ON THE FACE OF THEM, THAT THOSE PAPERS BELONGED TO MY CLIENT.

DO YOU THINK THAT CASE HAS BEEN REOPENED?

IT SAID SO IN THE, WHEN I PULLED IT UP ON THE SCREEN, YOUR HONOR. I DON'T

THAT CASE IS A DONE DEAL. YOU WERE SUSPENDED

I REALIZE THAT, YOUR HONOR.

FOR 60 DAYS. ARE YOU CHALLENGING THAT UNDERLYING?

YOUR HONOR, I AM, BUT IT DOESN'T MATTER. IT IS DONE AND IT IS OVER.

HELP US, NOW, WITH THEMORE.

I AM HERE FOR THIS CASE , YOUR HONOR.

THE BAR IS HERE SE EKING YOUR LICENSE , SEEKING TO DISBAR YOU, AND THEY ARE DOING IT ON THE BA SIS OF THE REFEREE'S FINDING APPARENTLY , THAT YOU, ACTUALLY , CR EATED A CHA RADE , D URING THIS 60-DAY PERIOD, BY HIRE AGO YOUNG LAWYER AND HAVING HIM BE, IN ESSENCE, SOR T OF A S CREEN FOR YOU , AND THAT YOU PRACTICED LAW DURING THAT PERIOD OF TIME , US ING THIS YOUNG LAWYER , OKAY , AND NOWHELP US

YOUR HONOR , I HAD

IS THAT THE WHAT THE REFEREE FOUND ?

YES. YOUR HONOR , I WE NT TO G GREAT EXTREMES TO D O EVERYTHING POSSIBLE TO MA KE SURE I DID NOTHING WR ONG. I HAD HE NRY TRAWICK ADVISING ME. I HAD SC OTT TOZIN AD VISING ME. I DID EVER YTHING

DID ANYBODY ADVISE YOU THAT YOU COULD HAVE DIRECT CONTACT WITH A CLIENT AND C HARGE \$3.

AN HO UR?

YOUR HONOR AND CHARGE \$350 AN HOUR?

YOUR HONOR.

DID ANY ONE ADVI CE YOU THAT ? ADVI SE YOU THAT?

NO , AND I HAD NOT HAVE DIRECT CONTACT WITH ACLIENT.

IS THAT WHAT THE REFEREE FOUND? DID THE REFEREE FIND THATYOU DID HAVE DIR EC T CLIENT CONTACT?

YES.

IS THERE EVIDENCE IN THERECORD TO SUPPORT THAT?

I HAD NO , I DID NOTREPRESENT ANY CLIENT ON ANY , OR TALK TO ANY CLIENT OR PRACTICE LAW.

IS THERE EVIDENCE IN THE RECORD CONTRADICTING YOUR STATEMENT?

NO.

THERE IS NO EVIDENCE IN THE R E CORD THAT YOU CONTACTED

TH ERE IS NO EVIDENCE THAT I CONTACTED OR SOUGHT TO TALK TO ANY CLIENT.

WHAT IS THE EVID ENCE ABOUT THE WO MAN CLIENT THAT YOU TALKED TO OVER THE TELEPHONE AND THEN SUBSEQUENTLY CHARGED HER \$350 AN HOUR AND THAT YOU CLAIMED THAT THIS WAS FOR BUSINESS CONSULTING , BUT IF I UNDERSTAND HER TESTIMONY , SHE SAID THAT SHE HAD NEVER RETAINED YOU FOR ANY BUS INESS CONS ULTING , AND YOU HAD N EVER CHARGED HER BEFORE.

THAT'S NOT TRUE, YOUR HONOR.

TELL ME WHAT HER TESTIMONY WAS.

SHE DID NOT SAY THAT , YOUR HONOR.

WHAT DID SHE SAY?

SHE TESTIFIED THAT, WHAT I DID FOR HER WAS ONLY RELATED TO REAL ESTATE MATTERS, AND THAT IT WAS , RELATES, THAT I INFORMED HER WHEN SHE CALLED ME THAT I COULD NOT PRACTICE LAW, THAT THE ONLY THING I WAS DOING IS BUSINESS CONSULTING . SHE CALLED ME WHEN I WAS CHECKING OUT AT THE GROCERY STORE.I SAID I COULD NOT REPRESENT HER ON ANY THING. THE ONLY THING I WAS DOING WAS BUSINESS CONSULTING . AND I DO CHARGE \$350 AN HOUR TO \$500 AN HOUR ON BUSINESS CONSULT TO \$500 AN HOUR ON BUSINESS CONSULT TO \$500 AN HOUR ON BUSINESS CONSULTING. I WAS DOING THAT BEFORE I PRACTICED LAW.

WAS IT HER TESTIMONY THAT YOU HAD ENGAGED IN BUSINESS CONSULTING AND CHARGED \$350 AN HOUR FOR THAT?

YES, YES, YOU WILL , YOUR HONOR.I HAVE A LICENSE THROUGH THE STATE OF ST. PETERSBURG FOR BUSINESS CONSULTING . I WAS AN URBAN AND ECONOMIC CONSULTANT, AND I PRACTICED FOR THE MARYLAND LEGISLATURE IN FISCAL RESEARCH AS AN ANALYST, BEFORE I WENT - - AS A FISCAL RESEARCH AND LIST , BEFORE I RESEARCH ANALYST , BEFORE I PRACTICED LAW. I ADVISED THE STATE AND WORKED AS AN ECONOMIC CONSULTANT FOR MORTON HOFFMANN, IN COMPANIES BEFORE I WENT TO LAW SCHOOL , AND I HAVE A REAL ESTATE BROKER'S LICENSE. SHE ASKED ME TO GIVE HER A DVICE ON THIS

HOLD ON , MA'AM.

I AM SORRY .

IF THIS WAS SO INNOCENT AS YOU PORTRAY IT NOW , THEN WHY DID THE YOUNG MAN WHO WORKED FOR YOU, I FORGOT HIS NAME, I APOLOGIZE , FEEL COMPELLED THAT , ONCE YOU GAVE HIM THE LETTER, TO MODIFY THE LETTER AND RESIGN ?

THE FLORIDA BAR HAD , THE FLORIDA BAR HAD THREATENED THIS YOUNG ATTORNEY , AND I WAS NOT IN THE OFFICE. I WAS IN LOUISIANA FOR A PERIOD OF TIME , ON BUSINESS CONSULTING FOR MONTHS , AND I DID CHARGE HIM THE SAME AMOUNT THAT I CHARGED THESE PEOPLE, THIS SAME WOMAN, AND I MADE OVER \$5,000 ON THAT PROJECT . THE SECRETARY WAS MAD AT ME BECAUSE I DIDN'T CHARGE FOR TRAVEL TIME , AND I DIDN'T, BUT I DID CHARGE HIM AT \$3.

AN HOUR FOR THE PERIOD OF AT \$350 AN HOUR FOR THE PERIOD OF TIME THAT I DID WORK ON THE CASE. THEY THE PEOPLE THAT WERE WORKING IN THE OFFICE , THE ATTORNEY AND THE SECRETARY, I DID NOT CONTROL WHAT THEY DID.I DID NOT WORK AS A PARALEGAL IN DRAFTING ANY PLEADINGS. I DID CORRECT THE GRAMMATICAL THINGS , IF THEY BROUGHT IT INTO THE OFFICE. THE YOUNG ATTORNEY WAS PUT IN A TERRIBLE SITUATION BY THE FLORIDA BAR. THEY PULLED BOTH OF THE PEOPLE OUT OF THE OFFICE , BROUGHT THEM IN, AND INTIMIDATED THEM, THINKING THAT THEY WERE GOING TO LOSE , THAT THE ATTORNEY WAS GOING TO LOSE HIS LICENSE.

WAS THAT IN THE RECORD?

YES. HE TESTIFIED IN HIS DEPOSITION, THAT , IN , THE SECRETARY TESTIFIED THAT , AND I CITED IT IN MY BRIEFS , THAT THIS WAS GOING TO RUIN HIS CAREER .

WHAT JUSTICE BELL IS ASKING YOU, DID YOU HAVE HIM, AFTER YOU FOUND OUT THE BAR WAS INVESTIGATING YOU , GIVE HIM A LETTER THAT INDICATED THAT YOU WERE EMPLOYED BY HIM AS PARALEGAL. WAS THAT A LETTER YOU PRESENTED TO HIM?

NO. MR. TOZIN HAD SENT ME THE LETTER THAT THE FLORIDA, THAT THE FLORIDA BAR IN TALLAHASSEE SAID HAD TO BE SIGNED AS PART OF WHATEVER YOU ARE SUPPOSED TO DO THAT WE HAD NOT, THAT I HAD NOT RECEIVED FROM MR. TOZIN, AND HE SAID, I THOUGHT YOU HAD, I HAD SENT IT TO YOU. SO I GAVE IT TO HIM, AND I SAID, IF YOU HAVE ANY TROUBLE WITH THIS, TALK TO HENRY TRAWICK OR TALK TO MR. TIZIAN OR TALK TO LEE GREEN, AND I HAD GIVEN HIM THOSE NAMES BEFORE.

SO YOU DIDN'T DRAFT THAT LETTER?

NO. I DIDN'T DRAFT IT.

MR. TOZIAN DRAFTED THAT LETTER?

MR. TOZIAN DRAFTED IT. AND I SAID CHANGE IT IF YOU WANT OR TALK TO THESE ATTORNEYS. I WOULD ADVISE YOU, YOU TALK TO THESE OTHER PEOPLE.

THE POINT WAS THAT THE ONLY WAY YOU COULD BE THERE WAS AS A PARALEGAL, AND THIS ATTORNEY REFUSED TO SIGN THAT, BECAUSE HE DIDN'T FEEL YOU WERE ACTING AS A PARALEGAL.

NO. HE DID SIGN IT, AND I DID NOT PUT ANY STRESS ON HIM IN SIGNING IT.

HE DIDN'T DELETE THE REFERENCE TO YOUR EXPLOIT EMPLOYMENT AS A PARALEGAL?

HE DID SIGN IT.

WITH THAT DELETION?

I CAN'T REMEMBER.

ARE YOU NOW, HAVE YOU, ARE YOU CURRENTLY PRACTICING LAW?

NO. I HAVEN'T PRACTICED LAW SINCE YOU PLACED ME UNDER SUSPENSION. I HAVE HAD NO INCOME SINCE THEN.

I THOUGHT YOU SAID THAT YOU HAD INCOME AS A BUSINESS CONSULTANT.

I DID. BUT THIS HAS BEEN SO BAD, I CONTINUE TO SEND OUT CONTRACTS AND TRY TO GET NETWORK, YES, BUT BASICALLY, WE ARE NOT MEETING OUR OVERHEAD. I

WHO IS, WHEN YOU SAY WE ARE NOT MEETING OUR OVERHEAD?

I SET UP A BUSINESS, BUT IT IS NOT MEETING THE OVERHEAD.

A BUSINESS WITH A NONLAWYER.

OF COURSE. I HAVE, I HAVE BEEN DOING MY BEST TO MAKE BUSINESS CONSULTING BUSINESS WORK, BUT PREVIOUSLY, WHEN I WAS RUNNING THE BUSINESS CONSULTING AND THE LAW FIRM, THE LAW FIRM SAID BUSINESS CONSULTING. BUSINESS HAS BEEN VERY BAD, THE REPUTATION OF ALL OF MY BUSINESSES.

AS I AM UNDERSTANDING YOU TODAY AND THE COURT DOESN'T, RARELY HAS ORAL ARGUMENT IN BAR DISCIPLINE CASES, BUT WHEN THE BAR IS SEEING THE ULTIMATE NATIONAL SANCTION, WE THE ULTIMATE SANCTION, WE FEEL YOU HAVE THE OPPORTUNITY, WE WANT YOU TO BE ABLE TO GIVE YOUR BEST SHOT. YOU WERE ADMITTED TO THE BAR IN 1973. YOU HAVE HAD SEVERAL CASES INVOLVING, YOU DON'T NEED TO GET THIS. IT IS IN THE REFEREE'S REPORT. YOU

HAD, I N 1994, A 24-MONTH PERIOD OF PROBATION FOR CHARGING AN EXCESSIVE FEE. IN 1995, A 90-DAY SUSPENSION AND A PUBLIC REPRIMAND FOR TRUST ACCOUNT VIOLATIONS AND CHARGING AN EXCESSIVE FEE. YOU, THEN, HAD OUR 60-DAY SUSPENSION FOR MISREPRESENTING IN HIDING DOCUMENTS, IN A DEPOSITION, AND THEN THIS OTHER SITUATION, WHERE YOU FILED PLEADINGS THAT CONTAINED FALSE STATES, ANALOGY AS IANS THAT THE REFEREE FOUND TO AND ALLEGATIONS THAT THE REFEREE FOUND TO BE TRUE THAT YOU WERE PRACTICING LAW WHILE SUSPENDED. ARE YOU HERE TODAY, TO TELL US THAT NONE OF THIS HAPPENED, ALL OF THIS IS INCORRECT, MISUNDERSTANDING, THE BAR JUST HAVING IT OUT FOR YOU?

JUSTICE, THERE IS NOTHING I CAN SAY THAT IS GOING TO CONVINC YOU THAT I AM INNOCENT. AND I AM. BUT ANY TIME THE FLORIDA BAR CHARGES YOU, YOU ASSUME THAT I HAVE TO OR ANY ATTORNEY HAS TO COME AND PROVE THEIR WAY UP. WHEN ROBERT MERCKLE CALLED ME IN 1990 AND ASKED ME TO GIVE HIM CONFIDENTIAL INFORMATION THAT I REFUSED TO GIVE HIM, FROM THEN, ON, I HAVE NOT BEEN ABLE TO GET FREE OF THE FLORIDA BAR. THERE HAS BEEN ONE CHARGE AFTER ANOTHER, AND, NO, I DID NOT, AND IN THE ANDREWS CASE, I DID NOTHING WRONG IN A \$18 MILLION SFAET, BUT E STATE, BUT AT THE END THE JUDGE WHO WANTED TO GIVE MONEY, THAT CASE TO HIS FORMER LAW PARTNERS. I AM SORRY. I HAVE DONE EVERYTHING I CAN FOR 30 YEARS, TO PRACTICE LAW VERY ETHICALLY AND VERY MORALLY, AND I HAVE STOOD ON MY HEAD, WHEN THE SUSPENSION CAME OUT, TO NOT DO ANYTHING WRONG. I WROTE THOSE CHECKS TO THESE PEOPLE, TO PROTECT THE CLIENTS THAT WE HAD. I TOOK MY NAME OUT AND TOOK MY NAME OUT AND DID NOT HOLD OUT THAT I WAS AN ATTORNEY. I DID NOTHING AND SAID NOTHING TO SAY THAT I AM AN ATTORNEY. I SPENT \$30,000 OF MY OWN MONEY TO SETTLE A CASE IN FEDERAL COURT, SO THAT NONE OF MY CLIENTS WOULD BE HURT. I SPENT \$30,000 PAYING THIS YOUNG ATTORNEY, AND THE SECRETARY, SO THAT THOSE CLIENTS THAT WERE INDIGENT WOULDN'T BE HURT. I DON'T KNOW WHAT ELSE I CAN DO!

CHIEF JUSTICE: OKAY. WELL, I APPRECIATE YOUR COMMENTS, AND I GUESS I UNDERSTAND WHAT YOU ARE SAYING IS THAT YOU DON'T SEE THAT YOU DID DO ANYTHING WRONG.

I HAVE DONE EVERYTHING I CAN DO, TO FOLLOW THE RULES AND ETHICS

CHIEF JUSTICE: THANK YOU VERY MUCH. I THINK THAT WE ARE, NO REBUTTAL IS NECESSARY