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The Florida Bar v. James Harvey Tipler

SC03-149 | SC05-1014 | SC06-1775

>> GOOD MORNING.

>> LADIES AND GENTLEMEN, THE
FLORIDA SUPREME COURT.

PLEASE BE SEATED.

>> THE NEXT CASE ON THE COURT'S
AGENDA IS THE FLORIDA BAR
VERSUS JAMES TIPLER.

MR. TIPLER.

>> YES.

THANK YOU FOR THE OPPORTUNITY
TO BE HEARD.

THREE MATTERS HAVE BEEN
CONSOLIDATED FOR ORAL ARGUMENT
THIS MORNING.

THERE ARE THREE SEPARATE
SUPREME COURT CASES
WHICH REQUIRE FOCUS.

I WILL FOCUS ON 06-1775.

THE RECENT AND MOST SERIOUS.

>> MR. TIPLER, TAKE FULL
ADVANTAGE OF OUR SOUND SYSTEM
HERE.

>> LIFT IT UP.

I APOLOGIZE, YOUR HONOR.

CASE 06-1775 WAS A ISSUE
PREPARED IN MY INITIAL PREVIOUS
SERVICE STATUTE FOR RULES
REGULATING THE FLORIDA BAR,
NUMBER 3711 WHICH IT STATES
WHILE THE COURT OBVIOUSLY HAS
JURISDICTION OVER EVERY MEMBER
OF THE BAR, SERVICE CAN BE MADE
BY CERTIFIED MAIL RETURN
RECEIPT REQUESTED.

THAT WAS DONE IN THIS CASE.

HOWEVER AS HAS BEEN SET FORTH. I
DID NOT RECEIVE THE COMPLAINT
FILED AGAINST ME IN THAT CASE.

>> DIDN'T, THEN THE BAR MAILED
THE COMPLAINT TO YOUR LAST
KNOWN BAR ADDRESS.

AND, YOU, MAINTAIN YOU DID NOT
RECEIVE THAT?

>> I MAINTAIN I DID NOT RECEIVE
IT AND ALSO THERE IS AN
AFFIDAVIT OF MY ASSISTANT WHO

ALSO SAYS SHE DID NOT RECEIVE IT SINCE SHE WAS RESPONSIBLE FOR GOING TO GET THE MAIL.

>> THE THING THAT SEEMS TROUBLESOME THERE WAS A MOTION TO DISQUALIFY FILED IN THE CASE MONTHS BEFORE A DEFAULT WAS EVER ENTERED.

>> EXACTLY.

THAT IS WHAT DISTINGUISHES THIS CASE FROM THE PORTER CASE.

>> I UNDERSTAND.

SO BUT SOMEBODY KNEW SOMETHING WAS GOING ON, DID THEY NOT?

>> I KNEW A CASE HAD BEEN FILED AGAINST ME.

YES I DID.

>> OKAY.

AND IS THE, A LAWYER, WOULD NOT HAVE THE JUST CALLED ANOTHER LAWYER AND WHEREVER THIS WAS FILED, I HAVE NO IDEA WHERE ALL THIS, ALL THESE THINGS WERE GOING ON BUT, IS IT YOUR VIEW THAT YOU CAN'T GET COPIES FROM THE CLERK'S OFFICE OF DOCUMENTS WHEN YOU KNOW SOMEBODY'S, PARTICULARLY SOMETHING LIKE A BAR COMPLAINT?

>> THAT'S WHAT HAPPENED IN THIS CASE.

I CALLED THE CLERK'S OFFICE IN PANAMA CITY, AND ASKED, THESE FILES ARE KEPT WITH THE JUDGE, THE REFEREE IN THIS CASE, JUDGE SIRMONS WHO I MADE A MOTION TO DISQUALIFY.

I ASKED FOR A COPY AND WAS TOLD TO SEEK IT FROM THE FLORIDA BAR.

IN THIS CASE I ASKED SPECIFICALLY TO GET A COPY OF THE COMPLAINT, JUDGE AND SHE REFUSED TO PROVIDE A COPY.

>> I'M NOT REAL PLEASED WITH THE ALLEGATIONS, I DON'T KNOW IF THEY'RE TRUE OR NOT, THE BAR NOT SENDING YOU A COPY LATER.

IT'S STILL KIND OF TROUBLING THAT SOMEBODY, IF I'M SUBJECT TO THE A BAR COMPLAINT, I MEAN I'M ON A PLANE TO PANAMA CITY TO PICK UP COPY OF THE COMPLAINT MYSELF AT CLERK'S

OFFICE.

>> ABSOLUTELY.

THAT'S EXACTLY WHAT I DID WHEN I
LEARNED THE DEFAULT HAD BEEN
ENTERED.

>> BEFORE THE DEFAULT.

THIS IS MONTHS.

>> I KNEW A CASE HAD BEEN
FILED.

THERE ARE OTHER CASES FILED
AGAINST ME, YOUR HONOR.

AND I WAS A MEMBER OF

CALIFORNIA TIME AT THE BAR.

I WAS SPENDING A LOT OF TIME IN
CALIFORNIA OUT THERE.

THE P.O. BOX HERE WAS SUPPOSED
TO BE LOOKED AFTER BY AN
ASSISTANT.

THE FIRST TIME I LEARNED THAT
THE COMPLAINT HAD BEEN SERVED,
NOT FILED, HAD BEEN SERVED WHEN
SHE FILED A MOTION FOR DEFAULT
THAT I GOT A DEFAULT ORDER.

I ATTEMPTED VERY QUICKLY --

>> HOW DID YOU KNOW WHAT
REFEREE WAS APPOINTED TO THIS
CASE?

YOU FILED A MOTION AS JUSTICE
LEWIS SAID TO, DISQUALIFY THE
REFEREE.

HOW DID YOU KNOW THAT REFEREE
HAD BEEN APPOINTED?

DID YOU GET THAT IN THE MAIL?

>> I GOT A COPY OF THE ORDER OF
THIS COURT SAYING THAT JUDGE
SIRMONS WAS APPOINTED.

>> IT WAS TO THE SAME ADDRESS
THAT THE BAR SENT --

>> YES.

>> -- THEIR COPY OF THE COMPLAINT
TO?

>> WELL, THEY SENT IT BY
CERTIFIED MAIL AND IT WAS NEVER
CLAIMED.

THAT'S WHY IT WAS IN THE
RECEIVED.

>> I'M SAYING THE REGULAR MAIL,
DO WE HAVE THE SAME ADDRESS
THAT THE BAR HAS?

>> YES.

AND, I RECEIVED EVERYTHING SENT
BY REGULAR MAIL BECAUSE IT
WASN'T SENT BACK.

WHAT HAPPENED WAS, I WAS UNDER

TREATMENT IN CALIFORNIA AND DOING BUSINESS OUT THERE AND I WAS OUT OF THE STATE.

SO WHEN IT WAS SENT, I DON'T THINK THE RULE DEALS WITH THIS. IN MOST CASES A MEMBER OF THE FLORIDA BAR IS PRACTICING LAW IN THE STATE AND I WAS SUSPENDED AT THE TIME.

SO I WAS OUT OF THE STATE DOING OTHER BUSINESS.

AND I DID NOT GET A COPY OF THE COMPLAINT.

>> YOU'RE MAKING CONTRAST IN ALL THREE OF THE CASES?

>> IN ALL THREE OF THE CASES?

NO. ONLY IN CASE 06-1775.

>> HOW ABOUT ADDRESSING THE MERITS THEN OF THE OTHER TWO CASES THAT YOU DON'T MAKE THAT CLAIM.

>> THE MERITS, YES.

>> THE MERITS IN THOSE TWO CASES THAT YOU MAKE NO CLAIM OF NOT HAVING BEEN PROPERLY SERVED.

>> ALL RIGHT, SIR.

IN CASE NUMBER 05-0104 IN THAT CASE I ENTERED A PLEA TO, NO, I WAS CONVICTED OF CONTEMPT OF COURT BASICALLY.

THERE WAS A SEPARATE PROSECUTION BROUGHT FOR A CLASS B MISDEMEANOR IN ALABAMA WHERE IT OCCURRED FOR INTERFERENCE WITH JUDICIAL PROCEEDINGS.

>> WHO WAS THE, THE PERSON THAT YOU WERE REPRESENTING?

BECAUSE THE NUMBERS DON'T SEEM TO MESH.

SO, THIS --

>> THE ESTATE OF ROGERS, ESTATE OF HAROLD ROGERS.

>> ESTATE OF ROGERS.

>> IT WAS A MEDICAL MALPRACTICE CASE, YOUR HONOR.

I WAS REPRESENTING THE PLAINTIFF.

I HAD DONE A NUMBER OF MALPRACTICE CASES.

IN THIS CASE THE GENTLEMAN WHO HAD DIED HAD MUNCHAUSEN SYNDROME.

HE COMPLAINED ALL THE TIME

ABOUT PAIN.

THERE WAS VIDEOTAPE OF A PARTY DAY BEFORE THE OPERATION I OBTAINED JUST PRIOR TO THE TRIAL TAKING PLACE.

I ASKED MY INVESTIGATOR TO DO EDITED VIDEOTAPE SHOWING EVERY PLACE MR. ROGERS APPEARED. HE DID SO, WHEN YOU LOOK AT ENTIRE THREE-HOUR TAPE THERE WAS A PLACE WHERE HE WAS COMPLAINING OF PAIN BUT HIS FACE WAS NOT ON THE SCREEN. THAT WAS NOT INCLUDED IN THE EDITED VIDEOTAPE.

NEITHER TAPE, ENTERED INTO EVIDENCE.

>> SO WHAT DOES THAT ALL GO TO? WHAT ISSUE ARE YOU DISCUSSING?

>> I'M, I'M DISCUSSING THAT CLAIM ABOUT WHY I THINK THE DECISION IS WRONG IN THAT CLAIM.

IN CASE NUMBER 05-0104.

>> OKAY.

THE FLORIDA BAR SAID WHAT?

>> THE FLORIDA BAR SAID, THIS IS ALL RECIPROCAL DISCIPLINE. NONE OF THIS, NONE OF THIS ON THAT CASE OCCURRED HERE.

THE ALABAMA BAR GAVE ME A 120-DAY SUSPENSION FOR WHAT HAPPENED.

THE CALIFORNIA BAR GAVE ME A 30-DAY FOR WHAT HAPPENED.

FLORIDA BAR ARGUED FOR AND GOT A THREE-YEAR SUSPENSION THAT THE ACTIONS OCCURRED IN COURT WHICH IS CONTEMPT OF COURT CITATION.

AND IT'S AN ENORMOUS --

>> IN ALABAMA?

>> IN ALABAMA.

>> NOTHING OCCURRED IN FLORIDA.

IT WAS AN ALABAMA TRIAL.

ALABAMA HEARD THE ENTIRE MATTER.

THEIR BOARD OF DISCIPLINARY APPEALS IN FACT RULED THAT WE REVERSE THE ORDER.

WE FIND NO INTERFERENCE WITH THE ADMINISTRATION OF JUSTICE. IT WAS SIMPLY AN EDITED VIDEOTAPE WAS ATTEMPTED TO BE OFFERED

INTO EVIDENCE.

>> WHAT IS YOUR STATUS WITH THE ALABAMA AND CALIFORNIA BARS?

>> IN ALABAMA I WAS SUSPENDED FOR A TOTAL PERIOD OF 19 MONTHS ON THESE TWO OFFENSES CASES BEFORE THE COURT. 19 MONTHS.

THAT TIME HAS LONG SINCE PASSED. I HAVE TO SEEK REINSTATEMENT. I HAVE NOT SOUGHT REINSTATEMENT.

IN CALIFORNIA I WAS SUSPENDED FOR A TOTAL OF 12 MONTHS FOR ALL THESE MATTERS.

>> ALL THE MATTERS THAT OCCURRED IN FLORIDA?

>> NO.

05-1014 AND 03-149.

THOSE ARE ALABAMA CASES RECIPROCAL DISCIPLINE.

I'M DEALING WITH THOSE CASES NOT THE FIRST ONE BECAUSE OF JUSTICE ANSTEAD'S REQUEST.

THEY WERE ALABAMA PROCEEDINGS RECIPROCAL DISCIPLINE.

THE ONE I SPOKE ABOUT, 1014. ALABAMA AWARDED 120-DAY SUSPENSION.

IN 03-145 THEY AWARDED 15 MONTHS.

AND HERE, THE COURT ORDERED THREE YEARS FOR THE 120 DAYS AND, 18 MONTHS FOR THE 15-MONTH ONE.

IN CALIFORNIA TO ANSWER YOUR QUESTION, I'M CURRENTLY UNDER ACTUAL SUSPENSION.

THE SUSPENSION WILL BE ENDED IN APRIL OF NEXT YEAR.

IT'S A ONE-YEAR SUSPENSION.

THEN I WILL BE ON PROBATION.

>> WHAT HAPPENED IN ALABAMA?

>> FOR WHAT HAPPENED IN ALABAMA DUE TO RECIPROCAL DISCIPLINE.

>> NOTHING HAPPENED SEPARATELY IN CALIFORNIA?

>> NO. NO.

NOT IN THESE TWO CASES AND NOTHING IS PENDING IN CALIFORNIA ON THAT.

I THINK THAT THERE IS A

CALIFORNIA CLIENT IN 06-1975,

WHICH WAS BROUGHT HERE BECAUSE

IT WAS A FLORIDA MATTER.
SO, ONLY IN THAT WAY.
IF I COULD GO BACK TO
06-19775, THE DIFFERENCE IN
PORTER IN THIS CASE IS THERE IS,
IN PORTER THERE WAS A KNOWING
DECISION ACCORDING TO THIS
COURT TO IGNORE THE MAIL.
I MADE NO SUCH KNOWING
DECISION.
IN FACT I MADE A MOTION TO
OVERTURN DEFAULT PROPERLY.
I RESPONDED TO REQUESTS FOR
ADMISSIONS.
I FILED A MOTION TO DISQUALIFY
THE JUDGE.
HE LATER DID RECUSE HIMSELF AND
I ACTED TO TRY TO ABILITY.
WHEN I GOT NOTICE OF IT ON THE
19th OF MARCH OF '07, I SENT AN
E-MAIL TO THE FLORIDA BAR
SAYING PLEASE GIVE ME A COPY OF
THE COMPLAINT.
SHE DECLINED TO GIVE ME A COPY
OF THE COMPLAINT.
IN WRITING.
AND EVEN THOUGH I TRIED TO GET
A COPY I COULDN'T GET A COPY.
>> YOU HAVE A CASE PENDING.
YOU FILED A MOTION TO RECUSE OR
DISQUALIFY THE JUDGE.
>> KNOWING THAT THERE WAS A
COMPLAINT FILED.
>> AND HOW MUCH TIME BEFORE THE
MOTION FOR DEFAULT?
>> TEN DAYS BETWEEN, LESS THAN
TEN DAYS BETWEEN RECEIVING THE
DEFAULT ORDER, AND BECAUSE I
WAS NEVER SERVED WITH THE
COMPLAINT.
>> NO.
MY QUESTION IS, WHAT WAS THE
TIME PERIOD BETWEEN THE TIME
YOU FILED THE MOTION TO RECUSE,
OR DISQUALIFY, THE REFEREE AND
WHEN A DEFAULT WAS ENTERED?
>> I THINK IT WAS SEVERAL
MONTHS, YOUR HONOR.
>> AND SO --
>> I COULD NOT GET A HEARING ON
THE MOTION.
>> WITHIN THOSE SEVERAL MONTHS
YOU NEVER, WENT TO THE CLERK'S
OFFICE, ASKED FOR A COPY OF

ANYTHING?

>> YES, YES, I DID.

AND IN THE AFFIDAVIT IN EVIDENCE IN THE FILE IS THAT WE REQUESTED A COPY FROM THE COURT.

THESE FILES AS I UNDERSTAND IT ARE KEPT BY THE REFEREE. THEY'RE NOT KEPT IN THE CLERK'S OFFICE.

>> WHICH COURT?

>> CIRCUIT COURT OF PANAMA CITY, HONORABLE DON SIRMONS.

>> IS THAT WHERE IT IS FILED?

>> THE FILE IS KEPT WITH THE REFEREE IS MY UNDERSTANDING. I'M NOT A BAR ATTORNEY. I'VE NEVER DONE THIS EXCEPT FOR MYSELF.

I UNDERSTAND THEY'RE KEPT WITH THE REFEREE.

THAT'S WHERE WE ASKED FOR IT. HE SAID YOU CAN ONLY GET IT FROM THE FLORIDA BAR.

>> YOU KNOW, IT SEEMS TO ME, ARGUING ALL THESE PROCEDURAL MATTERS, IS AROUND THE EDGES THE REASON YOU NEED TO DEAL WITH, THAT IS SUBSTANTIVE COMPLAINTS HELD AGAINST YOU IN ALABAMA AND THEN THE SUBSEQUENT COMPLAINT IN THIS DETERMINED BY THIS REFEREE.

IN THE 1400 CASE.

>> 1400 CASE, YOUR HONOR?

>> WHATEVER THAT, SECOND ONE THAT YOU --

>> 1014?

>> ONE YOU WANTED TO TALK ABOUT IN THE REFEREE SAYS, IN THIS CASE, RESPONDENT HAD A DISCIPLINARY RECORD.

SHOWED A DISHONEST AND SELFISH MOTIVE IN ATTEMPTING TO INTRODUCE THE SHORTER VERSION OF THE VIDEOTAPE IN THE ALABAMA PROCEEDINGS SUBSTANTIAL EXPERIENCE AND PRACTICE OF LAW, RESPONDENT ALSO MISREPRESENTED TO THE REFEREE AT THE FINAL PENALTY HEARING THAT THE CALIFORNIA STIPULATION WAS FINAL AND FAILED TO SUBMIT AN

ACCURATE AND TRUE COPY OF
EXHIBIT 8.

SEEMS TO ME THOSE ARE
SUBSTANTIVE FINDINGS BY A
REFEREE HERE OF DISHONEST
CONDUCT.

>> AND, THANK YOU FOR BRINGING
THAT UP.

I THINK THAT'S VERY
IMPORTANT.

AND I HAVE A QUOTE TO READ YOU
ON THAT.

LET ME DEAL FIRST WITH THE
ISSUE OF THE CALIFORNIA ISSUES
WHICH THE JUDGE HEARD AND MADE
A FINDING ON BECAUSE THAT IS
IMPORTANT.

WHAT I, WHAT I TESTIFIED AT THE
COURT WAS THIS THEY ASKED, WAS
A SETTLEMENT AGREEMENT IN
CALIFORNIA, WHICH GAVE THE 12th
MONTH TIME OF SUSPENSION
FINALIZED?

I SAID THE SETTLEMENT AGREEMENT
IS FINALIZED.

IT IS SIGNED BY THE PROSECUTOR
FOR THE BAR AND BY MY LAWYER
AND BY ME.

IT HAS NOT BEEN FINALIZED IN
THE SENSE I HAVE NOT BEEN
SUSPENDED BECAUSE THEY HAVE AN
ALTERNATIVE DISCIPLINE PROGRAM.

I WAS UNDER TREATMENT.

FOR THAT REASON IT WAS UNDER
ALTERNATIVE DISCIPLINE.

AND SO IF I'M NOT SUCCESSFUL IT
WILL BE FINAL.

NOW IN FACT THAT IS EXACTLY
WHAT HAS OCCURRED.

THE EXACT SAME PERIOD OF TIME,
EXACT SAME SUSPENSION.

NOW, SO THE ISSUE IS, AND IT
WAS THIS DISCUSSION TO TRY TO
SAY, WHETHER IT WAS FINAL OR
NOT.

I SAID IT'S BEEN FINALIZED IN
THAT SENSE BECAUSE IT WAS
SIGNED BY EVERYONE AND I
SUBMITTED TO THE COURT
TRANSCRIPTS OF THE HEARING
WHERE JUDGE TALCOT, THE BAR
JUDGE IN CALIFORNIA SAYS, THIS
IS A FINAL THING.

IF YOU DON'T GO TO ADP IT IS

OUT.

>> WHEN WERE YOU FIRST ADMITTED TO BAR?

>> I WAS FIRST ADMITTED TO THE BAR IN 1977 IN CALIFORNIA.

>> AND SINCE 1977 WHERE HAVE YOU PRACTICED LAW?

>> IN CALIFORNIA, IN ALABAMA AND IN FLORIDA.

ALL THREE STATES.

>> WHERE ARE YOU PRACTICING LAW PRESENT?

>> I'M NOT PRACTICING LAW AT PRESENT.

I'M SUSPENDED.

>> YOU'RE NOT PRACTICING LAW PRESENTLY IN ANY JURISDICTION.

>> THAT'S CORRECT.

>> YOU REMAIN UNDER SUSPENSION IN ALABAMA?

>> I'M NOT, WELL, MY SUSPENSION HAS BEEN SERVED, YOUR HONOR, BUT I HAVE NOT SOUGHT --

>> YOU HAVE TO BE REINSTATED IN ALABAMA?

>> THAT'S CORRECT.

I HAVE NOT SOUGHT REINSTATEMENT.

>> YOU'RE UNDER SUSPENSION IN FLORIDA, YOU'RE UNDER SUSPENSION IN ALABAMA.

ARE YOU UNDER SUSPENSION IN CALIFORNIA?

>> YES AND I WILL BE REINSTATED WITHOUT SEEKING REINSTATEMENT IN APRIL.

SO I WILL BE BACK IN AS A LAWYER IN CALIFORNIA IN APRIL.

>> WHEN?

>> IN APRIL I'M SORRY.

YOU DON'T HAVE TO SEEK REINSTATEMENT IN CALIFORNIA.

>> IN APRIL OF THIS COMING YEAR?

>> YES. THAT'S CORRECT.

>> YOU'VE BEEN ADMITTED IN PRACTICE IN ANY OTHER JURISDICTIONS?

>> VARIOUS FEDERAL COURTS BUT NO STATE JURISDICTIONS.

>> SO YOU, AND HOW LONG HAS IT BEEN SINCE YOU PRACTICED LAW?

>> I DON'T REMEMBER THE EXACT DATE BECAUSE I WAS SUSPENDED

BEFORE THIS.

>> ARE WE TALKING ABOUT YEARS?

>> NOT IN CALIFORNIA.

IT'S BEEN LESS THAN A YEAR IN CALIFORNIA.

>> MOST RECENT PRACTICE HAS BEEN IN CALIFORNIA?

>> THAT'S RIGHT.

>> AND WHEN WAS THAT?

>> I WAS SUSPENDED IN CALIFORNIA ABOUT I THINK IT'S BEEN ABOUT NINE MONTHS AGO. I KNOW THE ONE YEAR IS UP THIS APRIL.

SO I'M ASSUMING IT WAS LAST APRIL.

>> BUT AGAIN, THE CALIFORNIA SUSPENSION WAS BECAUSE OF THE ALABAMA ACTION?

>> YES.

YES.

>> NOBODY HAS TAKEN, NEITHER CALIFORNIA NOR ALABAMA HAS TAKEN ACTION BECAUSE THE RECOMMENDATION OF DISBARMENT?

>> NOT YET.

ONCE IT IS FINAL IF IT IS FINAL IT WILL.

I'M HOPEFUL IT WILL NOT BE FINAL.

>> IF IT'S FINAL CALIFORNIA WILL NOT, WILL HONOR THAT DISCIPLINE, CORRECT?

>> I ASSUME THERE WILL OBVIOUSLY BE RECIPROCAL DISCIPLINE THERE.

>> WHAT WAS NATURE OF TREATMENT YOU WERE UNDER IN CALIFORNIA? AND WAS THAT TENDERED HERE AS MITIGATION FOR ANY OF THE OFFENSES?

>> IT WAS.

IN CASE NUMBER 05-1014 AND CASE NUMBER 03-149 SPECIFICALLY I WAS IN TREATMENT FOR ALCOHOL AND SEX ADDICTION.

AND I UNDERWENT TREATMENT IN CALIFORNIA FOR THAT.

>> DID YOU NOTIFY THE FLORIDA BAR OF YOUR PROSECUTION IN ALABAMA?

>> OF THE PROSECUTION?

>> YOU WERE CRIMINALLY AND ETHICALLY IN ALABAMA, IS THAT

CORRECT?

>> YES.

>> DID YOU NOTIFY THE FLORIDA BAR?

>> I DON'T KNOW THAT, I KNOW THAT THEY WERE VERY AWARE OF IT.

>> I'M ASKING YOU ARE, ARE YOU AWARE OF THE FACT THAT YOU HAVE AN ETHICAL OBLIGATION TO NOTIFY THE FLORIDA BAR OF ANY PROSECUTIONS AGAINST YOU EITHER ETHICALLY OR CRIMINALLY IN OTHER JURISDICTIONS?

>> YES.

AND I BELIEVE THAT WAS DONE BY MY COUNSEL IN ALABAMA BUT I'M NOT POSITIVE.

IT WAS VERY WELL-KNOWN.

IT WAS ON A THE FRONT PAGES IN FLORIDA.

IT WAS VERY WELL-KNOWN.

>> NOT ASKING WHETHER IT'S WELL-KNOWN. I'M ASKING WHETHER OR NOT, YOU CERTAINLY SHOULD KNOW WHETHER OR NOT YOU NOTIFIED THE FLORIDA BAR OR DIDN'T NOTIFY THE FLORIDA BAR.

ARE YOU REPRESENTING TO THIS COURT THAT YOU DID NOTIFY THE FLORIDA BAR OF THOSE PROSECUTIONS?

>> NO. I'M REPRESENTING TO THE COURT

THAT I BELIEVE THE FLORIDA BAR WAS AWARE OF IT.

I DID NOT SEND A PERSONAL LETTER.

SO I'M REPRESENTING TO THE COURT I DID NOT SEND A LETTER SAYING, THIS IS HAPPENING BECAUSE IT WAS VERY WELL-KNOWN AND PROSECUTION WAS ONGOING IN FLORIDA TOO.

>> DID YOU NOTIFY THE FLORIDA BAR OF YOUR SUSPENSION IN CALIFORNIA?

>> THEY WERE IN CONSTANT CONTACT AND THEY WERE AWARE.

>> I'M NOT ASKING THAT QUESTION YOU SEE.

>> I UNDERSTAND.

>> I'M ASKING WHETHER OR NOT

YOU NOTIFIED THE FLORIDA BAR OF THESE PROCEEDINGS IN BOTH ALABAMA AND CALIFORNIA?

>> I UNDERSTAND YOUR QUESTION, JUSTICE ANSTEAD AND I DO NOT BELIEVE I SPECIFICALLY TOLD THEM.

I BELIEVE IT WAS JUST WELL-KNOWN BECAUSE WE'RE ALL IN CONTACT.

I DON'T THINK I --

>> I UNDERSTAND THERE IS SEPARATE ISSUE ABOUT BEING AWARE.

>> YES, SIR.

>> BUT YOU'RE TELLING US YOU DID NOT CARRY OUT THAT RESPONSIBILITY?

>> I THINK THE RESPONSIBILITY WAS CARRIED OUT IN THE WAY I STATED IT.

I DO NOT BELIEVE THAT A LETTER WAS SENT DIRECTLY FROM ME. BUT COUNSEL WAS IN TOUCH WITH MISS KLEIN ALL THE TIME ABOUT IT AND SHE WAS VERY AWARE OF IT.

>> AND WITHOUT QUESTIONING YOU HAVE, EXHAUSTED YOUR TIME. THANK YOU VERY MUCH, MR. TIPLER.

>> DO I HAVE SOME REBUTTAL TIME, YOUR HONOR?

>> I'LL GIVE YOU A MINUTE TO SUM UP.

MISS KLEIN.

>> MAY IT PLEASE THE COURT. MY NAME IS OLIVIA KLEIN, BAR COUNSEL FOR THE FLORIDA BAR.

>> MISS KLEIN, ON THE QUESTION WITH REGARD TO THE REQUEST FOR A COPY OF A PLEADING, WERE THE REPRESENTATIONS MADE CORRECT? DID SOMEBODY ASK YOU OR ASK SOMEONE AT THE BAR FOR JUST A COPY OF A COMPLAINT OR, AND THE BAR SAID NO, WE'RE NOT GOING TO SEND IT TO YOU OR SOMEBODY SAID I DON'T HAVE A COPY, WOULD YOU SEND ME ONE?

>> THE E-MAIL THAT I SENT IN MARCH, THAT IS TRUE BECAUSE MR. TIPLER BY THAT TIME HAD ALREADY BEEN SERVED TWICE WITH

COMPLAINTS FROM THE FLORIDA
BAR.

BACK IN --

>> YOU KNOW, WE'RE ALL LAWYERS
AND WE'RE ALL PROFESSIONALS AND
YOU KNOW, I'VE HAD ADVERSARIES
ON CASES THAT PAPERS GO MISSING
AND THEY SAY WOULD YOU SEND ME
A COPY?

AND I FELT AS A PROFESSIONAL I
NEEDED TO SEND THEM A COPY.
WHY IS IT THAT THE BAR, WOULD
ENGAGE IN THIS?

I'M REALLY MISSING SOMETHING
BECAUSE WE OUGHT TO SET THE
STANDARD AT LEAST ON THAT ONE
ISSUE.

I'M NOT GOING BEYOND THAT BUT
JUST THIS ONE THING.

IT JUMPED OUT AT ME IF ANOTHER
LAWYER ASKS BAR FOR JUST A COPY
OF THE ACCUSATORY PAPERS AND
THE BAR SAYS NO, GO AWAY, I'M
WONDERING WHAT WE'RE DOING AS
AN ORGANIZED BAR.

>> WELL, YOUR HONOR THE ONLY
WAY I CAN RESPOND TO THAT IS
THE FACT UNDER THE RULE WE'RE
REQUIRED TO SEND CERTIFIED
RETURN RECEIPT WHICH WE DID.

MR. TIPLER IGNORED
HIS MAIL AND --

>> LET ME GO BACK TO THAT
BECAUSE AGAIN, WE DO HAVE A
SITUATION WHERE WE, WITH BAR
CASES THEY'RE FILED HERE IN THE
SUPREME COURT BUT THEN THEY'RE
REFERRED TO A REFEREE AND, FOR
WHATEVER REASON, WELL, WE DON'T
GET THE CLERKS OF COURT
INVOLVED AND SO THE JUDGE KEEPS
THE FILE ESSENTIALLY IN, SO
WHEN MR. TIPLER ASKED THE JUDGE
FOR A COPY, THE JUDGE SAYS, GET
IT FROM THE BAR.

HE REPRESENTS THAT DURING THIS
PERIOD OF TIME THAT HE WAS IN
CALIFORNIA.

DO YOU DISPUTE THAT HE WAS IN
CALIFORNIA?

>> YOUR HONOR, I HAVE NO IDEA
WHERE HE WAS.

BECAUSE --

>> YOU SAID HE WAS SERVED

TWICE.

WHERE WAS HE SERVED?

WHAT ADDRESS WAS HE SERVED AT?

>> HE WAS SERVED AT THE ADDRESS

HE TOLD THIS BAR, THIS COURT --

>> WHAT WAS IT?

>> P.O. BOX 10, MARY

ESTHER, FLORIDA.

>> HOW DO YOU SERVE SOMEONE BY

CERTIFIED MAIL AT A POST

OFFICE BOX?

>> THAT WAS THE ADDRESS HE

ASKED.

>> HOW DOES THAT HAPPEN?

I UNDERSTOOD YOU CAN'T DO A

CERTIFIED MAIL TO POST OFFICE

BOX.

>> NO, IT CAN BE DONE BECAUSE

HE PICKED IT UP THERE BEFORE.

SENT IT TO A P.O. BOX.

>> AND CAME BACK AS WHAT?

WAS IT SIGNED?

>> NO, IT WAS NOT.

THERE WERE THREE ATTEMPTS TO

SERVE HIM AND IT WAS MARKED ON

THE ENVELOPE THAT IS INCLUDED

IN THE RECORD.

>> CAN WE ASK JUST LIKE REAL

LIFE PRACTICALITY, ALL RIGHT?

THE GUY'S IN CALIFORNIA.

HE'S GOT A POST OFFICE BOX

HERE.

HE IS A MEMBER OF THE

CALIFORNIA BAR.

YOU SEND A RETURN RECEIPT, YOU

SEND A, CERTIFIED, BECAUSE

THAT'S WHAT THE RULES SAY

BECAUSE WE'RE NOT, REQUIRING

THE BAR TO SERVE A SUMMONS ON

SOMEBODY.

AND, YOU'RE SERVING IT TO A

POST OFFICE BACKS THAT COMES

BACK THREE TIMES.

AGAIN, WE CAN LOOK AT THE U.S.

MAIL'S YOU KNOW, WEB SITE BUT I

DON'T KNOW HOW A CERTIFIED MAIL

GOES TO A POST OFFICE BOX.

SO NOW I'M ASKING YOU AND I

WANT TO GET BACK TO IT, A

MEMBER OF THE BAR WHO YOU'RE,

YOU ARE SEEKING DISBARMENT,

ASKS YOU FOR A COPY OF THE

COMPLAINT AND YOU SAY, WHAT?

>> IN THAT PARTICULAR E-MAIL

WHICH WAS THE THIRD TIME WE
WOULD HAVE SERVED HIM,
MR. TIPLER WAS ASKING FOR THAT
NOTICE OF THE COMPLAINT.
AND AT THE TIME HE
ASKED FOR IT --

>> YOU SAY FIRST TIME YOU
SERVED HIM, FIRST TWO TIMES
WERE CERTIFIED MAIL?

>> FIRST TIME I SERVED HIM WAS
CERTIFIED MAIL.
THREE TIMES IT CAME BACK TO THE
BAR.

THE SECOND TIME --

>> IF WE WERE DEALING WITH
SOMEBODY THAT WAS A
UNREPRESENTED LITIGANT, AND
THIS WAS BEFORE THE COURT,
WOULD THE BAR BE SAYING THAT?
WOULD THEY BE SAYING WE KNOW THE
PERSON DIDN'T GET IT. THAT IS
GOING AND THE PERSON ASKS YOU
FOR A COPY, SAY WE ALREADY
SERVED YOU BY CERTIFIED MAIL?
WHAT KIND OF ANSWER IS THAT?

>> NO, THAT WAS NOT ONLY TIME
HE GOT THE COMPLAINT, YOUR
HONOR.

MR. TIPLER FIRST OF ALL
REPRESENTED HE WAS IN
CALIFORNIA.

IT WAS NOT OUR UNDERSTANDING IN
2006 THAT HE WAS IN CALIFORNIA.
HE WAS STILL RESIDING HERE IN
FLORIDA.

THE, FIRST TIME WE SERVED HIM,
WAS UNDER THE RULE, 3-7.11-B
AND C SAYS CERTIFIED RETURN
RECEIPT.

THAT MEETS THE RULES OF DUE
PROCESS.

WE DID THAT.

THEN I GOT THAT COMPLAINT BACK
AT MY OFFICE AND I SAT DOWN THE
DAY WE GOT IT AND I WROTE A
LETTER TO MR. TIPLER BECAUSE HE
HAD INDICATED HE WANTED TO
SETTLE UP HIS CASES.

AND I ATTACHED A SECOND COPY OF
THAT COMPLAINT.

AND I SENT IT IT, SENT IT
REGULAR MAIL THE SECOND TIME.

I NEVER RECEIVED THAT LETTER.
I NEVER RECEIVED THAT COMPLAINT

BACK IN THE MAIL.

>> MAIL WENT BACK TO THE P.O. BOX?

>> PARDON?

>> THAT WENT TO THE P.O. BOX, THE MARY ESTHER, FLORIDA?

>> YES, YOUR HONOR.

WENT TO P.O. BOX 10, MARY ESTHER, FLORIDA.

I PERSONALLY SAT DOWN AND WROTE THE LETTER AND ATTACHED THE COMPLAINT.

AND I DIDN'T WANT ANYMORE DUE PROCESS ARGUMENTS WAY HE IS ARGUING PRIOR CASES. I WILL SEND HIM REGULAR COPY IN THE MAIL. IT NEVER CAME BACK AGAIN AND NEITHER DID THE LETTER.

>> DID THE JUDGE HAVE A HEARING IN THIS CASE TO MOTION TO SET ASIDE THE DEFAULT?.

>> YES WE DID.

IN FACT IT'S --

>> MR. TIPLER TESTIFIED AND YOU TESTIFIED?

>> YES, MR. TIPLER MADE HIS ARGUMENTS TO THE JUDGE AND IT WAS THE WEEK BEFORE OUR FINAL DISCIPLINARY HEARING.

SO THAT WOULD HAVE BEEN IN SEPTEMBER OF 2006, 7.

>> HE ALSO HAD A CHANCE TO PRESENT EVIDENCE AT THE, IN ON THE SANCTION EVEN THOUGH NOT ON THE, NOT ON THE, ON THE ACTUAL SANCTION IMPOSED RATHER THAN THE DISCIPLINARY VIOLATIONS?

>> WHAT HE DID, IS HE SET THE MOTION ON, ON HIS MOTION TO VACATE, THE DEFAULT, HE SET A MOTION HEARING IN SEPTEMBER OF 2007.

WE WENT TO THE REFEREE AND ARGUED ALL THESE POINTS THAT HE IS ARGUING HERE TODAY.

AND THE REFEREE DENIED HIS MOTION TO VACATE.

>> OKAY.

BUT THEN HE WENT, IT WENT TO A HEARING ON THE PROPER SANCTION?

>> YES.

IN THE LAST CASE, WE HAD A PENALTY HEARING THE FOLLOWING WEEK ON DISBARMENT.

PARDON?

>> DID HE PARTICIPATE IN THAT?

>> ABSOLUTELY.

HE APPEARED AT THE HEARING AND THE JUDGE SAID THAT HE COULD PRESENT MITIGATION EVIDENCE AND HE DECLINED TO DO SO AT THE END OF THE HEARING.

THE JUDGE SAID HE WOULD EVEN HOLD ANOTHER HEARING IF HE WANTED TO BRING IN MITIGATION EVIDENCE BUT HE SAID NO, HE WASN'T GOING TO BOTHER.

THAT WAS THE END OF THE DISCIPLINARY PENALTY HEARING. I BELIEVE AS FAR AS THE E-MAIL GOES, AT THAT PARTICULAR POINT IN TIME MR. TIPLER WAS ASKING FOR REPETITIVE NOTICES AND HE DIDN'T SEEM TO BE KEEPING TRACK OF ANYTHING THAT THE BAR WAS SENDING HIM.

FIRST OF ALL, HE HAD NOT RESPONDED TO THE CERTIFIED RETURN RECEIPT COMPLAINT WHICH UNDER THE BAR RULES MEETS DUE PROCESS AND HE HAD THREE TIMES LEFT IT UNCLAIMED IN HIS BOX. THEN I SENT IT TO HIM REGULAR MAIL IN OCTOBER.

AND THERE AGAIN, IT DIDN'T COME BACK TO ME.

WITHIN WEEKS AFTER THAT, AS YOUR HONOR POINTED OUT, HE FILED A MOTION TO DISQUALIFY THE REFEREE.

WELL HE HAD TO BE GETTING THINGS BY REGULAR MAIL BECAUSE YOUR NOTICE IS HERE FROM THE COURT.

THE ACKNOWLEDGEMENT OF THE CASE, THE REFERRAL OVER TO THE CHIEF JUDGES OF THE CIRCUIT AND THE APPOINTMENT OF THE REFEREE.

>> BEFORE YOU FILED THE MOTION FOR DEFAULT YOU FILED A NOTICE OF DEFAULT?

>> YES, YOUR HONOR.

>> AND WAS THAT SENT TO HIM ALSO?

>> THAT WAS SENT TO HIM CERTIFIED RETURN RECEIPT MAIL AND THAT WAS RETURNED. AND THEN WE SENT THE MOTION FOR DEFAULT AND WE SENT THAT

CERTIFIED RETURN RECEIPT MAIL.
BECAUSE WE WANTED TO MAKE SURE
THAT THE DUE PROCESS RULE OF
THE, FLORIDA BAR RULES --

>> THAT CAME BACK ALSO, THE
MOTION FOR DEFAULT?

>> YES, YOUR HONOR, ALL OF IT
CAME BACK.

>> I AGAIN, I, SOUND TO ME
THAT, THAT THERE WAS PROBABLY
ENOUGH NOTICE.

IT CERTAINLY WHEN MR. TIPLER
GOT OUR, NOTICE OF REFERRAL TO
A REFEREE HE COULD HAVE CALLED
THE SUPREME COURT AND GOTTEN A
COPY OF THE COMPLAINT BECAUSE
THE COMPLAINT WOULD HAVE BEEN
FILED WITH THIS COURT, CORRECT?

>> CORRECT, YOUR HONOR.

>> BUT I DO HAVE, AND AGAIN
IT'S JUST FOR THE FUTURE, WHEN,
THE BAR KNOWS THAT, AT SOME
POINT ACTUALLY KNOWS THAT
SOMEBODY IS RESIDING OUT OF
STATE, AND SO THEREFORE THESE
CERTIFIED LETTERS THAT ARE
GOING TO A POST OFFICE BOX,
REALLY IS NOT PROVIDING NOTICE,
ARE YOU, ARE YOU SAYING THAT
THE RULES ARE SO INFLEXIBLE
THAT IT DOESN'T ALLOW AS BAR
COUNSEL TO MAKE SURE THERE'S
ACTUAL NOTICE?

IN OTHER WORDS, LET'S, GUY'S IN
CALIFORNIA, YOU KNOW WE'LL SEND
A FEDEX OUT TO CALIFORNIA, GIVE
HIM THE PACKET?

YOU'RE SEEKING DISBARMENT.
LET'S MAKE SURE THE GUY'S GOT
EVERYTHING HE NEEDS.

DOES THE BAR JUST DOESN'T DO
SOMETHING LIKE THAT?

>> NO, YOUR HONOR, NOT USUALLY.
AND USUALLY IT JUST GOES
CERTIFIED RETURN RECEIPT AND IF
THEY DON'T RESPOND WE COULD
TAKE ACTION RIGHT AFTER THAT
UNDER THE RULES.

>> DID YOU HAVE AN ADDRESS FOR
HIM IN CALIFORNIA?

>> ABSOLUTELY NOT.

AND, IN FACT THIS MORNING I
CALLED THE BAR BECAUSE HE HAS
LISTED ON THE PROGRAM THAT WE

HAVE HERE TODAY'S HEARING THAT HIS ADDRESS IS BEVERLY HILLS, CALIFORNIA.

THAT WAS THE FIRST I HAD HEARD OF THAT.

I CHECKED AT THE BAR HE STILL HAS P.O. BOX.

>> DOESN'T A MEMBER OF THE BAR HAVE AN ONGOING OBLIGATION TO NOTIFY THE FLORIDA BAR OF THE ADDRESS OF THAT MEMBER?

>> YES, YOUR HONOR.

AND, UNDER RULE --

>> ISN'T THAT A VIOLATION?

ISN'T IT A VIOLATION THAT CAN SUBJECT A LAWYER TO DISCIPLINE TO FAIL TO KEEP A CURRENT ADDRESS WITH THE BAR?

>> IT COULD POSSIBLY.

I DON'T REMEMBER EVER BRINGING A CASE ON THAT ISSUE BUT MR. TIPLER TO THIS DAY SINCE '05 WHEN HE NOTIFIED THIS COURT IN A PLEADING HE SAID I WANT EVERYTHING SENT TO THAT P.O. BOX.

HE HAS NOT CHANGED HIS ADDRESS WITH THE FLORIDA BAR.

WE STILL HAVE MARY ESTHER, FLORIDA AS HIS OFFICIAL RECORD BAR ADDRESS.

>> SWITCHING FROM THE PROCEDURAL ISSUE, THAT WE'VE BEEN TALKING ABOUT, WHAT IS, WHAT IS THE BAR'S POSITION THAT WOULD CAUSE THIS COURT TO, TO, CHANGE THE DISCIPLINE ON THE ALABAMA CASE FROM SUSPENSION TO DISBARMENT?

>> ARE YOU SPEAKING ABOUT THE '05-1014 CONTEMPT CASE?

>> WELL, NO, I'M SPEAKING ISN'T THE BAR SEEKING DISBARMENT IN THE 149 CASE?

>> NO, YOUR HONOR.

IN THE 03-149 CASE, THAT'S WHAT I CALL THE SEX FOR FEES CASE WE'RE SEEKING 18-MONTH SUSPENSION.

THAT IS RECIPROCAL DISCIPLINE.

IN THE '05 CASE THAT IS RECIPROCAL DISCIPLINE ON THE CONTEMPT THAT OCCURRED IN ALABAMA.

WE'RE SEEKING THREE-YEARS
SUSPENSION.

THE THIRD CASE IS THE 06-1775
CASE WHICH WE ARE SEEKING
DISBARMENT FOR CLIENTS WHO WERE
DAMAGED HERE IN FLORIDA BY
MR. TIPLER.

>> AND THOSE WERE THE VARIOUS
CASES THAT, ALL OF THAT
OCCURRED WHEN?

>> AS TO THE DATE THEY WERE
INSTITUTED OR --

>> NO, THE DATE OF THE
MISCONDUCT.

>> THE DATE OF THE MISCONDUCT
IN THE '03 CASE STARTED BACK IN
1999, WHEN I FIRST OPENED THE
FILE.

AND THEN WE FILED OUR BAR
COMPLAINT IN 2003.

IT WAS PUT ON HOLD BECAUSE THE
CASE HAD ALREADY BEEN, GONE
THROUGH THE TRIAL LEVEL UP IN
ALABAMA.

AND THEN WE CAME BACK AND FILED
AN AMENDED COMPLAINT IN JULY OF
'05.

THE '05 CASE CAME DOWN AT THE
SAME TIME.

SO THAT'S WHY IN JULY, JUNE AND
JULY OF '05 THE '03 AND '05
CASES WERE PROCEEDING TOGETHER
BEFORE THE REFEREE.

>> WHEN WAS, WAS THERE A
CONVICTION IN BAY COUNTY? AM I
REMEMBERING THAT CORRECTLY?

>> THE CONVICTION WAS IN BAY
COUNTY, THAT'S CORRECT, YOUR
HONOR.

>> AND WHEN WAS THAT?

>> THAT WAS IN SEPTEMBER, WELL
SEPTEMBER OF '99 WAS WHEN
MR. TIPLER WAS ARRESTED.

I BELIEVE IT WAS ALMOST JULY OF
2001 BEFORE HE ENTERED INTO
AN AGREEMENT.

>> WHERE IS THAT, IS THE
RACKETEERING IN BAY COUNTY?

>> CORRECT.

>> SO WHERE'S THE DISCIPLINE
FOR THAT ONE?

>> THE DISCIPLINE FOR THAT ONE
IS THE 03-149 CASE BECAUSE WE
FILED OUR COMPLAINT IN JANUARY

OF 2003.

>> I THOUGHT YOU SAID 03-149
WAS RECIPROCAL DISCIPLINE.

>> IT IS.

>> BAY COUNTY, LAST I KNEW IS
IN FLORIDA.

>> THE PROCEDURE --

>> JUSTICE BELL WOULD HAVE TOLD
ME IF IT WAS NOT.

>> THE PROCEDURE IS A LITTLE
CONFUSING BECAUSE WHAT IS WHAT
WE DID WE TOOK OUR CASE BEFORE
THE GRIEVANCE COMMITTEE AND
OBTAINED THE OPPORTUNITY TO
FILE A COMPLAINT WHICH WE DID
IN FLORIDA.

BUT THEN AT THE FIRST CASE
MANAGEMENT CONFERENCE, HIS
ATTORNEY WANTED TO PUT OUR CASE
ON HOLD BECAUSE THE ALABAMA BAR
HAD TAKEN OUR EVIDENCE, WHICH
WE HAD SENT TO THEM IN '99 AND
2000, AND HAD GONE FORWARD WITH
THEIR PROCEEDINGS IN THAT CASE.

>> GOING, AND I KNOW YOU'RE
GOING TO GET OUT OF TIME THE
CLAIMS IN 06-1775, ARE
EXTREMELY SERIOUS, SEPARATE,
SEPARATE CHARGES ABOUT, SERIOUS
TRUST ACCOUNT VIOLATIONS OVER A
PERIOD OF TIME, CORRECT?

>> CORRECT.

>> AND THOSE ARE, THAT'S THE
CASE THAT WENT BY DEFAULT, BUT
THEN AGAIN, I WANT TO MAKE SURE
YOU'RE TELLING ME WHEN IT CAME
TO WHETHER THERE COULD BE
MITIGATION, MR. TIPLER HAD THE
OPPORTUNITY TO PRESENT ANYTHING
ABOUT HIS, YOU KNOW, DRUG,
ALCOHOL ABUSE, ANYTHING AND,
DID NOT PRESENT ANYTHING TO
THIS REFEREE?

>> IN THAT LAST CASE HE DID
NOT, YOUR HONOR.

>> WHAT WAS THE CONVICTION FOR?

>> THE ACTUAL CONVICTION IS
THAT HE PLED OUT TO ONE COUNT
OF SOLICITATION OF PROSTITUTION
IN BAY COUNTY.

>> OKAY.

AND THAT, WHAT WAS THE, THE
SENTENCE THERE?

>> HE HAD TO PAY \$500 IN COSTS

AND THAT WAS IT.

>> OKAY.

THAT WAS A MISDEMEANOR?

>> YES, YOUR HONOR.

>> OKAY.

IT'S THE BAR'S POSITION THAT THE REFEREE'S REPORTS SHOULD BE APPROVED IN FULL BECAUSE THEY WERE BASED ON REASONABLE BASIS IN THE CASE LAW AND WERE BASED ON THE FLORIDA STANDARDS.

MR. TIPLER MADE NUMEROUS DUE PROCESS ARGUMENTS BUT THOSE DUE PROCESS ARGUMENTS ARE NOT CREDIBLE BECAUSE THE RECORD REFLECTS THAT HE DID RECEIVE DUE PROCESS IN ALABAMA, HE DID, I MEAN, WE JUST HAVE TO LOOK AT THE FOUR VOLUMES HE SUBMITTED TO THE REFEREE IN EACH ONE OF THOSE CASES AND THERE WAS CERTAINLY DUE PROCESS IN ALABAMA AND AT THE TRIAL LEVEL AND TO APPEALS LEVEL.

WHEN WE GET TO DUE PROCESS IN FLORIDA THESE COMPLAINTS WERE SERVED PURSUANT TO THE 3-711-B AND C.

THAT RULE SAYS ONCE YOU'RE SERVED AS MEMBER OF BAR, YOU HAVE OBLIGATION TO KEEP BAR INFORMED OF YOUR ADDRESS. TO THIS DAY WE HAVE P.O. BOX, MARY ESTHER, FLORIDA, AS HIS RECORD BAR ADDRESS.

>> WITH THAT, MISS KLEIN, YOU HAVE ALSO EXCEEDED YOUR TIME. THANK YOU VERY MUCH FOR YOUR ARGUMENT.

>> THANK YOU VERY MUCH, YOUR HONOR.

>> MR. TIPLER YOU HAVE ONE MINUTE TO SUM UP YOUR POSITION.

>> THANK YOU. I WILL TRY TO BE VERY, VERY QUICK.

FIRST, THE CONVICTION IN BAY COUNT WAS NOT A CONVICTION. JUST FOR PRECISION, YOUR HONOR. IT WAS A ADJUDICATION WITHHELD AND FINE.

ALL CHARGES WERE DISMISSED EXCEPT FOR THAT.

SECONDLY, P.O. BOX 10 IN FLORIDA IS MY CURRENT MAILING

ADDRESS, THAT IS CORRECT.

I DID NOT RECEIVE THE A COPY OF THIS COMPLAINT BY REGULAR MAIL.

>> DID YOU EVER ADVISE THE BAR OF A CHANGE OF ADDRESS?

>> NO, BECAUSE IT DIDN'T CHANGE.

THERE WAS NO CHANGE OF ADDRESS IN THE SENSE OF THE BAR.

THAT WAS MY FLORIDA P.O. BOX.

AND I ASSUMED, I ASSUMED I WOULD GET COPIES.

>> YOU'RE COMPLAINING ABOUT NOT GETTING THINGS BECAUSE YOU WERE IN CALIFORNIA.

BUT YOU NEVER TOLD THE BAR YOU WERE IN CALIFORNIA.

SO THEY SENT THESE ITEMS TO THE ADDRESS YOU GAVE THEM.

>> MY ADDRESS IN CALIFORNIA IS BEVERLY HILLS ADDRESS.

THAT WAS THE ADDRESS AT THE TIME WHEN I WAS PRACTICING LAW OUT THERE.

>> BUT THE BAR DIDN'T KNOW THAT.

>> THE COURT DID, BUT I DON'T KNOW THAT I SPECIFICALLY TOLD THEM THAT BECAUSE I THINK THINGS SHOULD COME TO FLORIDA.

>> WERE YOU AWARE OF THE BAR RULES THAT THIS COURT HAS CITED TIME AFTER TIME THAT PUTS THE RESPONSIBILITY ON YOU TO BE CERTAIN THAT THE FLORIDA BAR HAS YOUR CURRENT ADDRESS?

>> AND I DID, AND I DID COMPLY WITH THAT AND THAT WAS THE CURRENT ADDRESS AND STILL IS. IT'S A CURRENT ADDRESS.

>> YOU DID COMPLY WITH WHAT?

>> I COMPLIED WITH RULE TO GIVE THEM CURRENT ADDRESS.

>> YOU PROVIDED THEM WITH P.O. BOX NUMBER IS THAT CORRECT.

>> WHICH HAD BEEN MY ADDRESS IN FLORIDA FOR MANY, MANY YEARS. IT DIDN'T CHANGE.

>> SO WHAT IS THE PROBLEM?

>> THE PROBLEM IS I NEVER GOT A COPY OF THE COMPLAINT AND I TRIED TO GET IT.

>> LET'S ASSUME WHICH ACCEPT THE BAR'S REPRESENTATION THEY

MAILED THESE TO YOUR P.O. BOX
ON NUMEROUS OCCASIONS.
WHAT IS YOUR EXPLANATION OF WHY
YOU DIDN'T GET THAT MAIL?

>> BECAUSE I WASN'T IN TOWN.

>> AREN'T YOU THE ONE THAT IS
RESPONSIBLE FOR SAYING, IF
YOU'RE PROVIDING, RIGHT NOW,
WHAT YOU'RE DOING IS PROVIDING
THIS COURT WITH A
REPRESENTATION THAT IF WE SEND
SOMETHING TO YOU, AT THAT P.O.
BOX YOU'LL RECEIVE IT, IS THAT
CORRECT?

>> THAT'S CORRECT.

AND I DID RECEIVE REGULAR MAIL.
>> HOW DO WE HAVE ANY CERTAINTY
OF THAT IF YOU HAVE THIS RECORD
IN THE PAST, THAT YOU ACCEPT OR
REJECT AT WILL MAIL THAT IS
SENT TO THAT BOX?

>> I DON'T ACCEPT IT OR REJECT
IT AT WILL.

>> HOW DID IT NOT GET ACCEPTED
BEFORE?

>> BECAUSE I WASN'T HERE TO
ACCEPT IT.

>> AND SO IS THAT THE WAY YOU,
THAT IS THE WAY YOU TREAT THAT
P.O. BOX?

>> NO, THAT IS NOT THE WAY I
TREAT THE P.O. BOX.

THAT WAS PERIOD OF TIME I WAS
IN TREATMENT AND OTHER THINGS
WERE GOING ON IN CALIFORNIA.
IT'S UNUSUAL CIRCUMSTANCE
BECAUSE MOST TIMES IN FLORIDA,
YOU HAVE AN ADDRESS THAT YOU'RE
AT.

I HAPPEN TO BE SOMEWHERE ELSE
AT THAT PARTICULAR TIME AND I
TOOK VERY QUICK STEPS TO STOP
THAT.

>> SO YOU NOTIFIED THE BAR, YOU
NOTIFIED THE BAR IN WRITING
THAT FROM FOR THIS PERIOD OF
TIME, THAT EVERYTHING THAT
SHOULD BE SENT TO YOU AT THE
CALIFORNIA ADDRESS?

>> NO.

FOR A PERIOD OF WEEKS, THESE
WERE NOT CLAIMED BY MY
ASSISTANT AND SHE SUBMITTED
AFFIDAVIT SAYING THAT SHE

DIDN'T RETRIEVE THEM.
THAT'S WHAT HAPPENED, OKAY.
I WAS SOMEWHERE ELSE BECAUSE I
WAS DOING OTHER THINGS.
>> MR. TIPLER, WITH THAT YOU
HAVE WELL-EXCEEDED THE MINUTE
THAT YOU WERE GIVEN.
WE APPRECIATE YOUR ARGUMENT.
YOU TOO, MISS KLEIN.
THANK YOU.