

IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR,

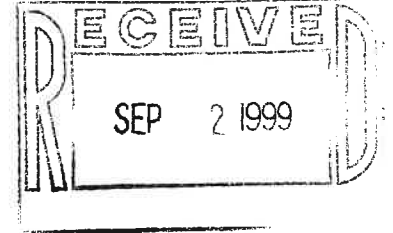
Complainant,

v.

ROY EDWARD LEINSTER,

Respondent.

Case No. ~~94,332~~ 96,454
[TFB Case No. ~~99-30,922~~ (09C) (CRS)]
2000, 30, 528(09C)(CRS)



SECOND AMENDED
PETITION FOR DISCIPLINARY RESIGNATION

COMES NOW the respondent, Roy Edward Leinster, and files this Petition for Disciplinary Resignation pursuant to R. Regulating Fla. Bar 3-7.12 and states:

1. Respondent knowingly and voluntarily files this petition to resign from The Florida Bar, with leave to reapply after five years with full knowledge of its effect.

2. Respondent is 51 years old and has been a member of The Florida Bar since February 27, 1974, and is subject to the jurisdiction of the Supreme Court of Florida and the Rules Regulating The Florida Bar.

3. The following disciplinary charges are currently pending against respondent:

A. Cases Pending Before the Supreme Court of Florida

Case No. 94,206; TFB Case Nos. 97-31,765 (09C), 98-31,903 (09C), 98-32,060 (09C), 99-30,201 (09C) and 99-30,446 (09C) - These matters are the underlying disciplinary cases resulting from respondent's emergency suspension.

B. Cases Pending Before a Referee

Case No. 88,457; TFB Case Nos. 95-31,433 (09C) and 95-31,561 (09C) - Allegations of incompetence, negligence and inadequate communication regarding respondent's handling of a criminal case and two dissolution of marriage actions for clients.

Case No. 89,223; TFB Case No. 96-30,496 (09C) - Allegations of trust account violations, and failing to timely provide an accounting of fees to a client.

Case No. 89,224; TFB Case No. 96-30,668 (09C) - Allegation of attempted bribery of a deputy sheriff regarding respondent's personal DUI case.

Case No. 89,939; TFB Case No. 97-90,006 (OSC) - A violation of probation matter wherein respondent failed to fully comply with the terms of his probation in Case No. 86,667 [TFB Case Nos. 94-30,787 (09C) and 95-30,079 (09C)], he failed to pass an urinalysis test, and continued to consume alcohol in violation of the terms of his probation.

Case No. 91,093; TFB Case No. 97-30,430 (09C) - Allegation that respondent appeared in federal court for a client's sentencing hearing in an impaired condition.

C. Cases Pending at Staff Level

Case No. 97-32,118 (09C); Complainant: The Florida Bar - On or about May 21, 1997, a compliance examination was conducted by the bar on respondent's trust account records for the period of January 1, 1993 through April 30, 1996. Respondent did not maintain a trust account during the examination period although it appeared that on several occasions, respondent received trust funds from clients. It was the opinion of the bar's auditor that respondent was not in substantial compliance with The Florida Bar Rules Regulating Trust Accounts. This case was closed on February 3, 1998 pursuant to the terms of respondent's Conditional Guilty Plea for Consent Judgment and was reopened on July 20, 1998 after the Court did not approve the consent judgment.

4. Respondent has the following discipline history:

A. The Florida Bar v. Leinster, 467 So. 2d 986 (Fla. 1985) - Conditional guilty plea for a ninety-one (91) day suspension for possession of cocaine, resisting arrest without violence, and battery.

B. The Florida Bar v. Leinster, Case No. 90-31,237 (09C) - Grievance committee level private reprimand for neglecting a legal matter.

C. The Florida Bar v. Leinster, 675 So. 2d 930 (Fla. 1996) - A twenty-one (21) day suspension retroactive to August 11, 1995 and a two (2) year period of probation with conditions for arrests for battery upon his current and former girlfriends; a DUI arrest in January, 1995 to which respondent pled nolo contendere; and a DUI arrest in July, 1995 which the state nolle prossed.

D. The Florida Bar v. Leinster, Case No. 93,715; TFB Case No. 99-30,220 (09C) (CES) - On August 28, 1998, the Supreme Court of Florida placed respondent on emergency suspension based upon numerous criminal charges against respondent and his long history of alcohol abuse.

E. The Florida Bar v. Leinster, Case No. 95,289; TFB Case No. 99-31,701(09C) (CFC) - Notice of Determination or Judgment of Guilt showing that respondent has been convicted of a felony.

5. Respondent submits that he is unable to engage in the practice of law in accordance with the Rules Regulating The Florida Bar due to his addiction to alcohol and the fact that he is serving a five year sentence in the Department of Corrections.

6. This resignation will not adversely affect the public interest, the purity of the courts, nor hinder the administration of justice nor the confidence of the public in the legal profession.

7. Respondent agrees to reimburse the Client's Security Fund of The Florida Bar as a result of his defalcations prior to seeking readmission to The Florida Bar.

8. Respondent agrees to reimburse The Florida Bar for the costs incurred in his disciplinary cases prior to seeking

readmission to The Florida Bar.

9. Respondent agrees to show proof of rehabilitation from any substance abuse prior to seeking readmission to The Florida Bar.


WHEREFORE, respondent respectfully requests this Honorable Court to grant the petition herein as follows:

A. The effective date of Respondent's disciplinary resignation would be the date of the Court's possible future order granting same.

B. Respondent would be subject to the continuing jurisdiction of this Court.

B. Respondent be granted leave to reapply for readmission to The Florida Bar five years from the date of the Supreme Court order accepting resignation.

Respectfully submitted,


ROY EDWARD LEINSTER
Respondent
Lake Correctional Facility
Lake County, FL
Attorney No. 171431
Dated: 8/25/99

CERTIFICATE OF SERVICE

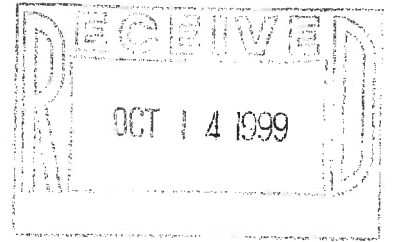
Original to: The Clerk of the Court, The Supreme Court of Florida

Copies to: Jack F. Harkness, Jr., Executive Director, The
Florida Bar, 650 Apalachee Parkway, Tallahassee, FL,
32399-2300

John Anthony Boggs, Staff Counsel, The Florida Bar,
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Frances R. Brown-Lewis, Bar Counsel, The Florida
Bar, 1200 Edgewater Drive, Orlando, FL, 32804-6314

IN THE SUPREME COURT OF FLORIDA



THE FLORIDA BAR,

Complainant,

Case No. 96,454

[TFB Case No. 2000-30,528 (09C)(CRS)]

v.

ROY EDWARD LEINSTER,

Respondent.

**RESPONSE TO SECOND AMENDED PETITION
FOR DISCIPLINARY RESIGNATION**

COMES NOW The Florida Bar, by and through the undersigned counsel and files this response to respondent's Second Amended Petition for Disciplinary Resignation pursuant to R. Regulating Fla. Bar 3-7.12, and says:

1. Respondent's first Amended Petition for Disciplinary Resignation was filed on or about December 2, 1998 [Case No. 94,332; TFB Case No. 1999-30,922 (09C)(CRS)]. On August 12, 1999 respondent's petition was denied, but without prejudice to resubmit it on the conditions that his resignation take effect on the date of the Court's possible future order granting his resignation and not nunc pro tunc October 1, 1997 as had been requested by respondent, and that respondent would be subject to the continuing jurisdiction of the Court.

2. Respondent's Second Amended Petition for Disciplinary Resignation was

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filed on September 2, 1999, wherein he included the conditions set forth in the Court's August 12, 1999 order. The Court treated such as a new petition and gave it the above referenced case number.

3. On August 28, 1998, the Court placed respondent on emergency suspension in Case No. 93,715 [TFB Case No. 99-30,220 (09C)(CES)]. On April 20, 1999 the Court suspended respondent for a felony conviction [Case No. 95,289; TFB Case No. 1999-31,701 (09C)(CFC)]. Respondent had entered a nolo contendere plea in the Ninth Judicial Circuit to felony charges of DUI With Serious Bodily Injury and DUI (Three Prior Convictions). Respondent was sentenced to five (5) years in prison followed by a five (5) year period of probation with restitution and other conditions.

4. The Florida Bar case numbers 1997-31,765 (09C), 1998-31,903 (09C), 1998-32,060 (09C), 1999-30,201 (09C) and 1999-30,446 (09C) are pending before the Court and are the underlying disciplinary cases resulting from respondent's emergency and felony suspensions.

5. Supreme Court Case Nos. 88,457; 89,223; 89,224; 89,939; and 91,093 are pending before a referee. TFB Case Nos. 1998-31,918 (09C) and 1997-32,118 (09C) are pending before the Ninth Judicial Circuit Grievance Committee "C".

6. The above referenced disciplinary cases stem from respondent's long history of alcohol abuse and numerous criminal charges against respondent.

Respondent is presently incarcerated due to his conviction on felony charges.

7. Respondent voluntarily ceased the practice of law in October 1997 due to his serious alcohol problem. Respondent now recognizes that he cannot engage in the practice of law in accordance with the Rules Regulating The Florida Bar due to his addiction to alcohol, the resulting criminal charges, and his present incarceration, and he wishes to resign from The Florida Bar.

8. Respondent seeks to resign from The Florida Bar with leave to apply for readmission five (5) years from the date of the Court's order accepting his resignation. Prior to seeking readmission, respondent must do the following: reimburse the Client's Security Fund of The Florida Bar as a result of his defalcations; reimburse The Florida Bar for the costs incurred in his disciplinary cases; and show proof of rehabilitation from any substance abuse.

9. The Board of Governors of The Florida Bar considered respondent's petition and voted to support the resignation.

10. Granting the petition will not adversely affect the public interest nor will it affect the purity of the court or hinder the administration of justice. Further, granting the petition should enhance the confidence of the public in the legal profession.

WHEREFORE, The Florida Bar respectfully urges this court to accept respondent's Second Amended Petition for Disciplinary Resignation.

Respectfully submitted,

JOHN F. HARKNESS, JR.
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and

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and

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Bar Counsel
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(407) 425-5424
Attorney No. 503452

BY: 
FRANCES R. BROWN-LEWIS
Bar Counsel

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original of the foregoing Response to Second Amended Petition for Disciplinary Resignation has been sent by regular U.S. Mail to The Clerk of the Court, The Supreme Court of Florida, Supreme Court Building, 500 S. Duval Street, Tallahassee, Florida, 32399-1927; a copy of the foregoing Response has been sent by regular U.S. Mail to the respondent, Roy Edward Leinster, #330474, Lake Correctional Facility, 55 W. Main Street, Tavares, Florida, 32778; and a copy has been forwarded to Staff Counsel, The Florida Bar, 650 Apalachee Parkway, Tallahassee, Florida, 32399-2300, this 14th day of October, 1999.

A handwritten signature in cursive script, reading "Frances R. Brown-Lewis". The signature is written in dark ink and is positioned above the printed name and title.

Frances R. Brown-Lewis
Bar Counsel

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