

## SUPREME COURT OF FLORIDA

### Florida Board of Bar Examiners re N.A.S.

165 So. 3d 668 (Fla. 2015) · Decided May 29, 2015

#### SUMMARY

The Florida Supreme Court approved the Florida Board of Bar Examiners' recommendation to admit N.A.S. to The Florida Bar subject to a two-year period of probation. The order imposes conditions concerning sobriety, substance testing, mental-health treatment, monitoring, residence in Florida, reporting obligations, and potential suspension or termination for violations.

#### CASE DETAILS

|                    |                                                                                                                                                                                                     |
|--------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT              | Supreme Court of Florida                                                                                                                                                                            |
| JURISDICTION       | Florida                                                                                                                                                                                             |
| DECIDED            | May 29, 2015                                                                                                                                                                                        |
| DISPOSITION        | approved                                                                                                                                                                                            |
| PROCEDURAL POSTURE | The Florida Board of Bar Examiners submitted a report and recommendation concerning N.A.S.'s admission to The Florida Bar. The Supreme Court of Florida considered and approved the recommendation. |
| PRECEDENTIAL VALUE | limited                                                                                                                                                                                             |

#### TOPICS

administrative law agency adjudication judicial review of agency action

#### PRACTICE AREAS

bar admission legal ethics and professional responsibility attorney discipline

#### QUESTIONS PRESENTED

1. Whether the Supreme Court of Florida should approve the Florida Board of Bar Examiners' report and recommendation regarding N.A.S.'s admission.
2. What conditions should govern N.A.S.'s admission to The Florida Bar.

#### HOLDINGS

1. The court approved the Florida Board of Bar Examiners' recommendation and admitted N.A.S. to The Florida Bar subject to the specified conditions.
2. N.A.S.'s license to practice law was placed on probation for two years, subject to the conditions set forth in the court's order, including abstinence, participation in Florida Lawyers Assistance, treatment and reporting requirements, monitoring, Florida residency, and potential suspension or termination for violations.

#### KEY QUOTATIONS

*“Upon consideration of the Report and Recommendation filed by the Florida Board of Bar Examiners, it is ordered that the Board’s recommendation is approved by the Court and N.A.S. shall be admitted to The Florida Bar subject to the following conditions:” (668)*

*“A failure to observe the conditions of the probation or a finding of probable cause as to conduct of the applicant committed during the period of probation may terminate the probation and subject the applicant to all available grievance procedures and disciplinary sanctions including disbarment under the Rules of Discipline.” (670)*

#### FACTUAL BACKGROUND

The Florida Board of Bar Examiners submitted a report and recommendation regarding N.A.S.'s admission to The Florida Bar. The recommendation incorporated a consent agreement requiring conditional admission, including sobriety, treatment, monitoring, reporting, and residency obligations. The court approved the recommendation and imposed the stated conditions on N.A.S.'s license.

#### PROCEDURAL HISTORY

The Florida Board of Bar Examiners filed a report and recommendation with the Supreme Court of Florida. The court approved the recommendation and ordered that N.A.S. be admitted to The Florida Bar subject to a two-year probationary period and specified conditions.

#### DISPOSITION

approved

#### OPINION

##### PER CURIAM.

Upon consideration of the Report and Recommendation filed by the Florida Board of Bar Examiners, it is ordered that the Board’s recommendation is approved by the Court and N.A.S. shall be admitted to The Florida Bar subject to the following conditions: 1.

The applicant’s license to practice law shall be placed on probation for a period of two years. 2. During the period of probation, the applicant shall: (a) abstain from the consumption of alcoholic beverages; (b) abstain from the use of controlled substances except as prescribed by a duly

licensed medical physician and approved by Florida Lawyers Assistance, Inc.; (c) participate actively in the program offered by Florida Lawyers Assistance, Inc. during the entire probationary period by complying with the rehabilitation contract with that organization executed on April 20, 2015, and by extending the contract to cover the entire period of probation if necessary; (d) attend attorney support meetings at least monthly, or at such greater frequency as required by Florida Lawyers Assistance, Inc.; (e) submit to and pay for a minimum of six (6) random urine drug/alcohol screens annually, as well as any other hair, blood, sweat, or other substance screening tests determined to be appropriate by Florida Lawyers Assistance, Inc.; and (f) continue to consult with Dr. Bill Kuzbyt, or other licensed mental health provider, at least, quarterly or more frequently as her mental health provider deems necessary; (g) follow promptly, diligently, and completely all instructions by her mental health provider, including the taking of any medication in the recommended manner as may be prescribed by her mental health provider; (h) have her mental health provider submit quarterly reports to The Florida \*669Bar during the entire probationary-period.

These reports shall confirm the Applicant's consultations for the preceding quarter and shall advise The Florida Bar of the Applicant's continuing ability to engage in the active practice of law; (i) obtain an agreement from her mental health provider stating that the mental health provider will immediately notify The Florida Bar if the Applicant misses a scheduled appointment without prior rescheduling; and, (j) submit quarterly sworn statements to The Florida Bar by March 31, June 30, September 30, and December 31 during the entire probationary period attesting to her compliance with the conditions set forth in 2(a), (b), (c), (d), (e), (f), (g), (h), and (i) above.

3. The Florida Bar shall monitor the conditions set forth in the Consent Agreement pursuant to Rule 1 — 3.2(b) of the Rules Regulating The Florida Bar, and the costs thereof shall be paid by the applicant to The Florida Bar or its designated monitoring agency. 4.

To monitor effectively the provisions in this agreement, the applicant shall reside within the State of Florida during the entire period of probation. Any business or pleasure trips outside Florida that exceed ten days shall occur only with the advance approval of The Florida Bar. If the applicant relocates outside the State of Florida during the probationary period for any reason, the applicant shall surrender her license to practice law in Florida and if the applicant fails to do so, the Supreme Court of Florida shall terminate her license.

5. The applicant shall immediately inform The Florida Bar of any criminal arrest or prosecution and the filing of any grievance or complaint related to the applicant's practice of law. 6. If the applicant's license is surrendered or terminated during the probationary period, the applicant shall resume the practice of law in the State of Florida only upon full compliance with the rules and regulations governing admission to The Florida Bar.

7. A failure to observe the conditions of the probation or a finding of probable cause as to conduct of the applicant committed during the period of probation may terminate the probation and subject the applicant to all available grievance procedures and disciplinary sanctions including disbarment under the Rules of Discipline. Upon receiving notice of a violation of the Court's order of conditional admission, The Florida Bar may immediately petition the Court for an order of suspension.

The applicant shall have ten days to file a response. If no response is timely filed by the applicant, then the Court shall issue an order suspending the applicant. If a response is filed, the matter shall be disposed of as the Court directs. Unless terminated by the Court, an order of suspension shall remain in effect until final disposition of the grievance procedures commenced by The Florida Bar against the applicant.

8. If circumstances so warrant it, the applicant and The Florida Bar may stipulate to an extension of the period of probation or The Florida Bar may petition the Court for such an extension with a final decision to be made by the Court. 9. By executing this Agreement, the applicant acknowledges that an uninterrupted period of documented sobriety for a minimum period of time must be established prior to admission to The Florida Bar on an unconditional basis.

Should the period of probation be extended pursuant to either paragraph 7 or 8 above, the applicant, therefore, further agrees that such extension shall be for a minimum of three up to five years. \*67010. By executing this Agreement, the applicant specifically consents to and authorizes the release of any and all materials in the applicant's file to The Florida Bar that the Bar may request from the Board to enable the Bar to fulfill its responsibilities under this Consent Agreement.