

SUPREME COURT OF FLORIDA

Florida Board of Bar Examiners Re B.B.

216 So. 3d 1283 (Fla. 2017) · Decided May 1, 2017

SUMMARY

The Supreme Court of Florida approved the Florida Board of Bar Examiners' recommendation to admit B.B. to The Florida Bar subject to a two-year probationary period. The order imposes sobriety, monitoring, reporting, residency, and compliance conditions, and provides for potential suspension or other discipline if the conditions are violated.

CASE DETAILS

COURT	Supreme Court of Florida
JURISDICTION	Florida
DECIDED	May 1, 2017
DISPOSITION	approved
PROCEDURAL POSTURE	The Florida Board of Bar Examiners submitted a report and recommendation concerning B.B.'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 professional responsibility legal ethics substance-abuse monitoring

QUESTIONS PRESENTED

1. Whether B.B. should be admitted to The Florida Bar subject to the conditions recommended by the Florida Board of Bar Examiners.
2. What conditions should govern B.B.'s admission, probation, monitoring, and continued authorization to practice law.

HOLDINGS

1. B.B. shall be admitted to The Florida Bar subject to the conditions set forth in the Court's order, including two years of probation.
2. B.B.'s license shall remain subject to a two-year probation, sobriety and substance-use restrictions, rehabilitation participation, testing, reporting, Florida residency and travel requirements, notice obligations, 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 B.B. shall be admitted to The Florida Bar subject to the following conditions:” (216 So. 3d at 1283)

“A failure to observe the conditions of the probation or a finding of probable cause by The Florida Bar 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.” (216 So. 3d at 1284)

FACTUAL BACKGROUND

B.B. sought admission to The Florida Bar and entered into a consent agreement addressing conditions related to sobriety, substance use, rehabilitation, monitoring, and reporting. The Florida Board of Bar Examiners recommended admission subject to those conditions. The Supreme Court approved the recommendation and imposed a two-year probationary period with additional requirements governing monitoring and continued eligibility to practice.

PROCEDURAL HISTORY

The Board recommended that B.B. be admitted to The Florida Bar subject to conditions stated in a consent agreement. The Supreme Court of Florida approved the Board's recommendation and ordered conditional admission subject to a two-year probation and specified monitoring, sobriety, reporting, residency, and compliance requirements.

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 B.B. 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. by complying with the rehabilitation contract with that organization executed on March 20, 2016, and by extending the contract to cover the entire probation if necessary; (d) 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.; (e) attend attorney support meetings at least monthly, or at such greater frequency as required by Florida Lawyers Assistance, Inc.; and, *1284(f) submit quarterly sworn statements to The Florida Bar by March 31, June 30, September 30, and December 31 during the probationary period attesting to compliance with the conditions set forth in 2 (a), (b), (c), (d) and (e) 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 his license to practice law in Florida and if the applicant fails to do so, the Supreme Court of Florida shall terminate his 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 by The Florida Bar 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. 10. 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.