

SUPREME COURT OF FLORIDA

In re S.A.P.

262 So. 3d 1288 (Fla. 2019) · Decided January 22, 2019

SUMMARY

The Florida Supreme Court conditionally admits an applicant to The Florida Bar subject to a probationary period and extensive conditions concerning sobriety, substance-use monitoring, mental-health treatment, reporting, and compliance with Florida Lawyers Assistance, Inc. The order also addresses monitoring, residency, violations, possible suspension, and extension of probation.

CASE DETAILS

COURT	Supreme Court of Florida
JURISDICTION	Florida
DECIDED	January 22, 2019
DISPOSITION	approved
PROCEDURAL POSTURE	The Supreme Court of Florida entered a per curiam order imposing a three-year probationary period and conditions on the applicant's admission to practice law.
PRECEDENTIAL VALUE	Published opinion

TOPICS

administrative law agency adjudication

PRACTICE AREAS

legal ethics bar admission and discipline professional responsibility

QUESTIONS PRESENTED

- Whether the applicant's admission to The Florida Bar should be subject to a three-year probationary period and specified monitoring and rehabilitation conditions.
- What consequences should apply if the applicant violates the conditions of probation or relocates outside Florida during the probationary period.

HOLDINGS

1. The applicant's license to practice law shall be placed on probation for three years, subject to the conditions stated in the order.
2. A violation of probation may terminate probation and subject the applicant to available grievance procedures and disciplinary sanctions, including disbarment; upon notice of a violation, The Florida Bar may petition for immediate suspension under the procedures stated in the order.

KEY QUOTATIONS

“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.” (262 So. 3d at 1289-90)

FACTUAL BACKGROUND

The applicant's admission to The Florida Bar was conditioned on a three-year period of probation. The probation conditions addressed sobriety, substance use, participation in Florida Lawyers Assistance, Inc. and support programs, mental-health treatment, monitoring, reporting, residence in Florida, and disclosure of arrests or grievances. The order also specified consequences for violating probation, including possible suspension, disciplinary proceedings, and disbarment.

PROCEDURAL HISTORY

The opinion text reflects a consent-agreement-based conditional admission order administered by The Florida Bar. The available excerpt begins with the conditions of probation and does not identify the lower-court proceedings.

DISPOSITION

approved

OPINION

PER CURIAM.

2. During the period of probation, the applicant shall: *1289(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 May 7, 2018, and by extending the contract to cover the entire period of probation if necessary; (d) participate actively in Alcoholics/Narcotics Anonymous by attending, at least, weekly meetings or such greater frequency as required by Florida Lawyers Assistance, Inc.; practice AA/NA principles in all of his affairs and carry the AA/NA message to other substance dependent individuals; (e)

attend attorney support meetings at least monthly, or at such greater frequency as required by Florida Lawyers Assistance, Inc.; (f) submit to and pay for a minimum of eight 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.; (g) continue to consult with Harris Feinstein, M.D., or other licensed mental health provider, at least, quarterly or more frequently as his mental health provider deems necessary; (h) follow promptly, diligently, and completely all instructions by his mental health provider, including the taking of any medication in the recommended manner as may be presented by his mental health provider; (i) have his mental health provider submit quarterly reports to The Florida Bar 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; (j) obtain an agreement from his 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 (k) submit quarterly sworn statements to The Florida Bar by March 31, June 30, September 30, and December 31 during the probationary period attesting to his compliance with the conditions set forth in 2 (a), (b), (c), (d), (e), (f), (g), (h), (i), and (j) 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 *1290grievance 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. 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.

A True Copy Test: John A. Tomasino Clerk, Supreme Court