

SUPREME COURT OF FLORIDA

Florida Board of Bar Examiners re D.W.S.

154 So. 3d 288 (Fla. 2014) · Decided December 3, 2014

SUMMARY

The Supreme Court of Florida approved the Florida Board of Bar Examiners' recommendation to admit D.W.S. to The Florida Bar subject to a five-year probationary period. The conditions include abstinence from alcohol and unauthorized controlled substances, participation in monitoring and recovery programs, mental-health treatment, reporting obligations, and Florida residency requirements. The order also specifies consequences for violating the probation conditions.

CASE DETAILS

COURT	Supreme Court of Florida
JURISDICTION	Florida
DECIDED	December 3, 2014
DISPOSITION	approved
PROCEDURAL POSTURE	The Supreme Court of Florida considered the Florida Board of Bar Examiners' report and recommendation concerning D.W.S.'s admission to The Florida Bar.
PRECEDENTIAL VALUE	Published per curiam conditional-admission order; limited value beyond the applicant-specific admission conditions and enforcement provisions.

TOPICS

agency adjudication administrative law judicial review of agency action

PRACTICE AREAS

bar admission professional responsibility lawyer discipline substance-abuse monitoring

QUESTIONS PRESENTED

1. Whether the Florida Board of Bar Examiners' report and recommendation for conditional admission should be approved.
2. What conditions should govern D.W.S.'s admission to and continued authorization to practice law in Florida.

HOLDINGS

1. D.W.S. shall be admitted to The Florida Bar subject to a five-year probationary period and the conditions specified in the Court's order.
2. A violation of the probation conditions or a finding of probable cause concerning conduct during probation may terminate probation and subject the applicant to suspension, grievance procedures, disciplinary sanctions, and potentially disbarment.

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 D.W.S. shall be admitted to The Florida Bar subject to the following conditions:” (288)

FACTUAL BACKGROUND

The Florida Board of Bar Examiners recommended that D.W.S. be admitted to The Florida Bar subject to conditions addressing sobriety, controlled-substance use, participation in Florida Lawyers Assistance, support meetings, drug and alcohol testing, mental-health treatment, and monitoring. The recommendation was based on a consent agreement executed by the applicant. The Supreme Court approved the recommendation and imposed the specified conditions of conditional admission.

PROCEDURAL HISTORY

The Florida Board of Bar Examiners filed a report and recommendation based on a consent agreement concerning the applicant's admission. The Supreme Court of Florida approved the recommendation and ordered that D.W.S. be admitted subject to a five-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 D.W.S. shall be admitted to The Florida Bar subject to the following conditions: *2891.

The applicant’s license to practice law shall be placed on probation for a period of five 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. (FLA); (c) participate actively in the program offered by FLA during the entire probationary period by complying with the rehabilitation contract with that organization executed on March 5, 2012, and

by extending the contract to cover the entire period of probation, if necessary; (d) participate actively in Alcoholics Anonymous by attending, at least, weekly meetings at such frequency as required by FLA; 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 FLA; (f) 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 FLA; and (g) continue to consult with Dr. Jeffrey A. Danziger, 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 prescribed 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 entire probationary period attesting to his 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 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 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.