

SUPREME COURT OF FLORIDA

Florida Board of Bar Examiners re S.J.C.

160 So. 3d 391 (Fla. 2015) · Decided March 17, 2015

SUMMARY

The Supreme Court of Florida approved the Florida Board of Bar Examiners' recommendation to admit S.J.C. to The Florida Bar subject to a five-year period of probation. The conditions include abstinence from alcohol and unauthorized controlled substances, participation in monitoring and recovery programs, residency and reporting requirements, and potential suspension or termination for violations.

CASE DETAILS

COURT	Supreme Court of Florida
JURISDICTION	Florida
DECIDED	March 17, 2015
DISPOSITION	approved
PROCEDURAL POSTURE	The Supreme Court of Florida considered the Florida Board of Bar Examiners' report and recommendation concerning the applicant's admission to The Florida Bar.
PRECEDENTIAL VALUE	Published opinion concerning conditional admission to The Florida Bar

TOPICS

administrative law agency adjudication judicial review of agency action

PRACTICE AREAS

bar admission professional responsibility legal ethics

QUESTIONS PRESENTED

- Whether the Supreme Court of Florida should approve the Florida Board of Bar Examiners' recommendation concerning the applicant's admission.
- Whether the applicant's admission should be conditioned on a five-year probationary period and the compliance requirements specified in the consent agreement.

HOLDINGS

1. The Supreme Court of Florida approved the Florida Board of Bar Examiners' recommendation and ordered that S.J.C. be admitted to The Florida Bar.
2. S.J.C.'s admission was conditioned on a five-year probationary period and compliance with specified requirements concerning sobriety, treatment participation, monitoring, reporting, residency, and possible suspension or termination.

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 S.J.C. shall be admitted to The Florida Bar subject to the following conditions:” (160 So. 3d at 391)

FACTUAL BACKGROUND

The Florida Board of Bar Examiners recommended that S.J.C. be admitted to The Florida Bar subject to conditions reflected in a consent agreement. The conditions required a five-year period of probation, abstinence from alcohol and unauthorized controlled substances, participation in Florida Lawyers Assistance, Inc. and recovery programs, random screening, and periodic sworn compliance statements. The order also imposed monitoring, residency, reporting, and enforcement requirements.

PROCEDURAL HISTORY

The Florida Board of Bar Examiners filed a report and recommendation based on a consent agreement with the applicant. The Supreme Court of Florida approved the recommendation and ordered that the applicant 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 S.J.C. 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 five years retroactive to September 9, 2012. 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 September 9, 2012, 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 Alcoholics/Narcotics Anonymous principles in all of her affairs and carry the Alcoholics/Narcotics Anonymous message to other substance dependent individuals; (e) undergo quarterly screening, or screening at such greater frequency as required by Florida Lawyers Assistance to assure screens are random, consisting of a multi-panel test for drugs plus EtG testing for alcohol, on randomly selected dates with notice of four hours or less at the direction of The Florida Bar to verify her abstinence from the use of alcohol and controlled substances; and (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 her 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 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. 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.