

IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR,

Complainant,

v.

MATT SHIRK,

Respondent.

Supreme Court Case
No. SC-

The Florida Bar File Nos. 2017-00,313
(10A) and 2017-30,587 (10A)

CONDITIONAL GUILTY PLEA FOR CONSENT JUDGMENT

COMES NOW, the undersigned respondent, Matt Shirk, and files this Conditional Guilty Plea pursuant to Rule 3-7.9 of the Rules Regulating The Florida Bar.

1. Respondent is, and at all times mentioned herein was, a member of The Florida Bar, subject to the jurisdiction of the Supreme Court of Florida.
2. Respondent currently is the subject of Florida Bar disciplinary matters which have been assigned The Florida Bar File Nos. 2017-00,313 (10A) and 2017-30,587 (10A). The Florida Bar File No. 2017-00,313 (10A) was opened by the bar on January 5, 2017 based upon the bar's receipt of the Grand Jury Presentment dated December 16, 2014. The Florida Bar File No. 2017-30,587 (10A) was opened on January 19, 2017 after receipt of a grievance from Henry M. Coxe, III.

3. Respondent has executed a Waiver of Probable Cause waiving his right to a probable cause hearing before a grievance committee and stipulating to a finding of probable cause in reference to these matters.

4. Respondent is acting freely and voluntarily in this matter and tenders this Plea without fear or threat of coercion. Respondent is not represented in this matter.

5. The disciplinary measures to be imposed upon respondent are as follows:

A. A six-month suspension from the practice of law requiring proof of rehabilitation prior to reinstatement.

B. Payment of the disciplinary costs.

6. Respondent acknowledges that, unless waived or modified by the Court on motion of respondent, the Court's order will contain a provision that prohibits respondent from accepting new business from the date of the order or opinion and shall provide that the suspension is effective 30 days from the date of the order or opinion so that respondent may close out the practice of law and protect the interest of existing clients.

7. The following allegations and rules provide the basis for respondent's guilty plea and for the discipline to be imposed in this matter:

A. Respondent was first elected Public Defender of the Fourth Judicial Circuit and took office in January 2009. Respondent was re-elected to a second term to begin in January 2013.

B. As elected Public Defender, respondent was subject to the Code of Ethics for Public Officers and Employees, Part III, Chapter 112, Florida Statutes, at all times relevant.

C. On January 2, 2015, a letter was sent by the State Attorney of the Eighth Judicial Circuit with a copy of the Presentment of the Grand Jury to the Florida Commission on Ethics for review.

D. After an investigation, on June 8, 2016, the Commission on Ethics found probable cause to believe respondent had violated Sections 112.313(6) and 112.313(8), Florida Statutes.

E. On August 22, 2019, respondent entered into a Joint Stipulation of Fact, Law and Recommended Order whereby respondent was found to have violated Section 112.313(6), Florida Statutes, by hiring or directing the hiring of three women contrary to procedures, policies, or qualifications, or outside of normal hiring practices.

F. Respondent terminated them from employment at the Public Defender's Office for the private benefit of himself, his wife, and their marriage.

G. Additionally, respondent violated Section 112.313(6), Florida Statutes, by serving or consuming alcoholic beverages in a city building contrary to a city code.

H. Respondent violated Section 112.313(8), Florida Statutes, for revealing information relating to the representation of a former child client, obtained in his capacity as Public Defender.

I. After the child entered a plea and the circuit court withheld adjudication, respondent, in an interview to a documentary crew interested in the case, revealed his client's defenses to the allegations of murder.

J. On September 18, 2019, the Commission on Ethics reported its findings and recommendation to the Governor of the State of Florida that respondent be publicly censured and reprimanded and have a civil penalty in the amount of \$6,000.00 be imposed against him.

K. Wherefore, by reason of the foregoing, respondent has violated the following Rules Regulating The Florida Bar:

i. 3-4.2 Violation of the Rules of Professional Conduct as adopted by the rules governing The Florida Bar is a cause for discipline.

ii. 3-4.3 The standards of professional conduct to be observed by members of the bar are not limited to the observance of rules and avoidance of prohibited acts, and the enumeration herein of certain categories of

misconduct as constituting grounds for discipline shall not be deemed to be all-inclusive nor shall the failure to specify any particular act of misconduct be construed as tolerance thereof. The commission by a lawyer of any act that is unlawful or contrary to honesty and justice, whether the act is committed in the course of the attorney's relations as an attorney or otherwise, whether committed within or outside the state of Florida, and whether or not the act is a felony or misdemeanor, may constitute a cause for discipline.

iii. 3-4.7 Violation of the oath taken by a lawyer to support the constitutions of the United States and the state of Florida is ground for disciplinary action.

iv. Oath of Admission to The Florida Bar: I do solemnly swear: I will support the Constitution of the United States and the Constitution of the State of Florida; I will maintain the respect due to courts of justice and judicial officers; I will not counsel or maintain any suit or proceedings which shall appear to me to be unjust, nor any defense except such as I believe to be honestly debatable under the law of the land; I will employ for the purpose of maintaining the causes confided to me such means only as are consistent with truth and honor, and will never seek to mislead the judge or jury by any artifice or false statement of fact or law; I will maintain the confidence and preserve inviolate the secrets of my clients, and will accept no compensation in connection with their business

except from them or with their knowledge and approval; To opposing parties and their counsel, I pledge fairness, integrity, and civility, not only in court, but also in all written and oral communications; I will abstain from all offensive personality and advance no fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which I am charged; I will never reject, from any consideration personal to myself, the cause of the defenseless or oppressed, or delay anyone's cause for lucre or malice. So help me God.

v. Chapter 4. Rules of Professional Conduct Preamble: A Lawyer's Responsibilities: A lawyer, as a member of the legal profession, is a representative of clients, an officer of the legal system, and a public citizen having special responsibility for the quality of justice... A lawyer's conduct should conform to the requirements of the law, both in professional service to clients and in the lawyer's business and personal affairs. A lawyer should use the law's procedures only for legitimate purposes and not to harass or intimidate others. A lawyer should demonstrate respect for the legal system and for those who serve it, including judges, other lawyers, and public officials. While it is a lawyer's duty, when necessary, to challenge the rectitude of official action, it is also a lawyer's duty to uphold legal process... In the practice of law, conflicting responsibilities are often encountered. Difficult ethical problems may arise from a conflict between a lawyer's responsibility to a client and the lawyer's own sense of

personal honor, including obligations to society and the legal profession. The Rules of Professional Conduct often prescribe terms for resolving these conflicts. Within the framework of these rules, however, many difficult issues of professional discretion can arise. These issues must be resolved through the exercise of sensitive professional and moral judgment guided by the basic principles underlying the rules. These principles include the lawyer's obligation to protect and pursue a client's legitimate interests, within the bounds of the law, while maintaining a professional, courteous, and civil attitude toward all persons involved in the legal system.

vi. 4-1.1 A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation.

vii. 4-1.3 A lawyer shall act with reasonable diligence and promptness in representing a client;

viii. 4-1.6(a) A lawyer must not reveal information relating to representation of a client except as stated in subdivisions (b), (c), and (d), unless the client gives informed consent.

ix. 4-8.4(a) A lawyer shall not violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another.

x. 4-8.4(d) A lawyer shall not engage in conduct in connection with the practice of law that is prejudicial to the administration of justice, including to knowingly, or through callous indifference, disparage, humiliate, or discriminate against litigants, jurors, witnesses, court personnel, or other lawyers on any basis, including, but not limited to, on account of race, ethnicity, gender, religion, national origin, disability, marital status, sexual orientation, age, socioeconomic status, employment, or physical characteristic.

8. In mitigation, respondent has no prior disciplinary history [Florida's Standards for Imposing Lawyer Sanction 3.3(b)(1)]; respondent's misconduct was due, in part, to personal or emotional problems [Florida's Standards for Imposing Lawyer Sanction 3.3(b)(3)]; respondent has fully and freely cooperated with the bar in its investigation and stipulated to facts in the Commission on Ethics matter [Florida's Standards for Imposing Lawyer Sanction 3.3(b)(5)]; respondent has suffered the imposition of other penalties or sanctions due to the grand jury investigation, the loss of election and the recommendation to the Governor which is pending of a public censure and fine [Florida's Standards for Imposing Lawyer Sanction 3.3(b)(11)]; and respondent is deeply remorseful for his unprofessional behavior while serving as Public Defender [Florida's Standards for Imposing Lawyer Sanction 3.3(b)(12)]. Respondent recognizes that his unprofessional demeanor and actions have brought public scrutiny and disrepute to the profession.

9. In aggravation, respondent's motives were selfish in nature [Florida's Standards for Imposing Lawyer Sanction 3.2(b)(2)]; respondent engaged in multiple offenses [Florida's Standards for Imposing Lawyer Sanction 3.2(b)(4)]; and the victims of his misconduct were vulnerable [Florida's Standards for Imposing Lawyer Sanction 3.2(b)(8)].

10. The Florida Bar has approved this proposed plea in the manner required by Rule 3-7.9.

11. If this plea is not finally approved by the Board of Governors of The Florida Bar and the Supreme Court of Florida, then it shall be of no effect and may not be used by the parties in any way.

12. Respondent agrees to eliminate all indicia of respondent's status as an attorney on social media, telephone listings, stationery, checks, business cards office signs or any other indicia of respondent's status as an attorney, whatsoever. Respondent will no longer hold himself out as a licensed attorney.

13. If this plea is approved, then respondent agrees to pay all reasonable costs associated with this case pursuant to Rule 3-7.6(q) in the amount of \$3,321.00. These costs are due within 30 days of the court order. Respondent agrees that if the costs are not paid within 30 days of this court's order becoming final, respondent shall pay interest on any unpaid costs at the statutory rate. Respondent further agrees not to attempt to discharge the obligation for payment of

the Bar's costs in any future proceedings, including but not limited to, a petition for bankruptcy. Respondent shall be deemed delinquent and ineligible to practice law pursuant to Rule 1-3.6 if the cost judgment is not satisfied within 30 days of the final court order, unless deferred by the Board of Governors of The Florida Bar.

14. Respondent acknowledges the obligation to pay the costs of this proceeding and that payment is evidence of strict compliance with the conditions of any disciplinary order or agreement and is also evidence of good faith and fiscal responsibility. Respondent understands that failure to pay the costs of this proceeding or restitution will reflect adversely on any other bar disciplinary matter in which respondent is involved.

15. If this plea is approved, and restitution is owed, if the person to whom restitution is owed cannot be located after a diligent search, respondent shall execute an affidavit of diligent search and provide same to The Florida Bar and shall pay the full amount of the restitution to the Clients' Security Fund of The Florida Bar within 30 days of the date of the affidavit of diligent search.

16. This Conditional Guilty Plea for Consent Judgment fully complies with all requirements of the Rules Regulating The Florida Bar.

Dated this 11th day of December, 2020.



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