

**IN THE SUPREME COURT OF FLORIDA
(Before a Referee)**

THE FLORIDA BAR

CASE NO. SC13-1253
TFB NO. 2014-10,053 (13D)

In Re: Petition for Reinstatement of
RONALD JAMES KURPIERS, II.

JOHN A. TOMLIN
2014 JAN 17 AM 9:33
CLERK OF THE COURT
BY _____

**REPORT OF REFEREE RECOMMENDING
PETITIONER FOR REINSTATEMENT**

I. Summary of Proceedings: Pursuant to the undersigned being duly appointed as Referee to conduct reinstatement proceedings herein according to the Rules Regulating The Florida Bar, a Final Hearing was conducted on December 4, 2013, at which time the undersigned considered the sworn testimony of Petitioner, the testimony of twenty-two (22) witnesses (including Petitioner), certain documentary evidence, and considered argument of counsel. All pleadings, notices, motions, orders and exhibits are forwarded to the Supreme Court of Florida with this report and constitute the record in this case.

The following attorneys appeared as counsel for the parties:

For The Florida Bar: Troy Matthew Lovell

For The Petitioner: Scott Kevork Tozian

II. Findings of Fact: After considering all the pleadings and evidence before me, pertinent portions of which are commented on below, I find:

- A. Pursuant to an order from the Supreme Court of Florida dated May 22, 2012, in SC11-486, Petitioner was suspended from the practice of law for ninety-one (91) days, effective June 21, 2012, for violating Rules 4-8.4(c) and Rule 4-8.4(d) of the Rules Regulating The Florida Bar.

- B. Additionally, on a second matter pending contemporaneously, Petitioner entered into a Consent Judgment for a Public Reprimand, which was approved by the Supreme Court of Florida on March 11, 2103, in SC12-1696.
- C. Petitioner has now been suspended for over eighteen (18) months.
- D. The record established that Petitioner has fully complied with his discipline orders.
- E. The Petitioner is CLE and dues compliant. Although not required to perform any CLE hours, Petitioner voluntarily attended Practicing with Professionalism in Tallahassee, Florida. Petitioner also voluntarily completed the Masters' Seminar in Ethics for 2012, as well as the Annual Ethics Update: Ethics Technology and Trust Accounting 2012.
- F. There was overwhelmingly clear and convincing evidence as to Petitioner's unimpeachable character and moral standing in the community.
 - 1. Honorable Elizabeth Anne Kovachevich, United States District Judge for the Middle District of Florida, who has been on the federal bench for over thirty (30) years and the state bench prior, stated that Petitioner had appeared before her in "numerous proceedings" (p. 13, ln. 15), including a nearly four-month criminal trial in which Petitioner "was taking the lead fighting on behalf of his client, and it was an extraordinary trial." (p. 15, lns. 20-21). Judge Kovachevich stated that Petitioner was "professional . . . vigorous in [his] representation, but I can honestly tell you that I have never had a better tried case. I thought it was an exceptional attribute to the profession." (p. 16, lns. 2-6). Judge Kovachevich stated that Petitioner has "never given [her] any reason to question what he represented . . . from an ethical standpoint." (p. 16, lns. 11-13). Judge Kovachevich also noted that Petitioner "could be appointed CJA," (p. 16, lns. 18-19). This meant that Petitioner "was on that list . . . and he got appointed to [criminal justice appointments] and served in that capacity . . . [meaning he] usually got the tough cases where you needed to make sure that you had the right kind of person representing the client." (p.17, lns. 5-10). Judge Kovachevich

acknowledged that Petitioner "did the wrong thing," (p. 22, ln. 2), but "I personally would welcome him back in my court representing a client. That's how much I think of him. And I think I'm not alone here." (p. 22, lns. 3-6).

2. Honorable James S. Moody, Jr., thirteen (13) year United States District Judge for the Middle District of Florida, who served over five (5) years as a state circuit judge prior, stated the Petitioner has "appeared frequently in front of [him] as a federal judge." (p. 27, lns. 8-9). Judge Moody stated that Petitioner "has always been very professional . . . [and Judge Moody] always relied on what he said and never had any cause not to do so." (p. 28, lns. 3-5). Judge Moody, noting Petitioner's "good rapport" with opposing counsel and the prosecutor's office, was "surprised" by Petitioner's "Bar issues," stating "[t]hat just didn't sound like the Ron Kurpiers that I know." (p. 28, lns. 21-24).
3. Honorable Susan C. Bucklew, twenty (20) year United States District Judge for the Middle District of Florida, who served over ten (10) years prior as a state court judge, stated that Petitioner "has appeared before [her] in a number of cases." (p. 32, lns. 20-21). She stated that Petitioner "was an excellent attorney. He was always very professional. He was always very prepared. I thought he did a good job of representing his clients. He tried a case well. I thought very highly of him." (p. 33, lns. 7-11). Judge Bucklew stated that in front of her Petitioner "always behaved ethically. You know, I trusted what he said when he said it." (p. 34, lns. 5-7). Correcting her tense, Judge Bucklew stated unequivocally: "I think highly of him." (p. 35, ln. 5).
4. Honorable Anthony E. Porcelli, four (4) year United States Magistrate Judge for the Middle District of Florida, who was with the United States Attorney's Office for the Middle District for ten (10) years prior, testified that he was opposing counsel to Petitioner on "numerous cases." (p. 130, ln. 15). Judge Porcelli stated that "when [Petitioner] represented something to me, I knew that that was a solid representation, and I could rely upon it." (p. 131, lns. 23-25). Once on the bench, Judge Porcelli continued to have contact with Petitioner, stating that Petitioner was "certainly one of

[the lawyers] that I would look to appoint specifically. I was confident he would be able to handle the case.” (p. 133, lns. 10-13). Judge Porcelli stated that he “thought, again, highly of [Petitioner] as I did as a prosecutor. I thought the same of him as a judge.” (p. 134, lns. 14-16).

5. Honorable Gregory P. Holder, nearly nineteen (19) year judge with the Thirteenth Judicial Circuit, currently assigned to the felony division, stated that Petitioner has appeared before him “[m]any times . . . in virtually every type of criminal proceeding.” (p. 38, lns. 8-12). In the “probably hundreds of times over the last going on seven years,” (p. 38, lns. 24-25), Judge Holder stated that Petitioner’s “professional and ethical confidence before this Court, myself, has been at the highest levels. I have never had any reason to question his integrity, his veracity.” (p. 39, lns. 1-4). Judge Holder stated that Petitioner’s running afoul of the Rules Regulating The Florida Bar were “absolutely shocking and just not consistent with what I have observed for many, many, many years.” (p. 39, lns. 5-7). Judge Holder “jumped at the opportunity” to speak on Petitioner’s behalf at the reinstatement hearing, noting that lawyers who “go astray . . . can be restored to that high level of professional competence.” (p. 40, lns. 1-6). Judge Holder stated: “I hope and pray that the justices on [the Florida Supreme Court] listen to the judges who have known this gentleman [Petitioner] for so many years and watched him practice again with the highest degree of professionalism.” (p. 40, lns. 13-16). Judge Holder noted that Petitioner “has been punished . . . [and Judge Holder] reviewed the record [in Petitioner’s Bar matter] . . . [and] it is my professional and personal opinion both that Mr. Kurpiers is deserving of the opportunity and privilege, and it’s both, to once again serve as a member of the Florida Bar.” (p. 40, lns. 17-23).
6. Honorable William Fuente, nineteen (19) year judge with the Thirteenth Judicial Circuit, both county and circuit, met Petitioner five or six years ago “through Inns of Court.” (p. 44, ln. 4). Judge Fuente, who has had Petitioner before him, stated that “if I had a [legal] problem, [Petitioner] is the kind of lawyer that I would want him to represent me.” (p. 45, lns. 2-3). Judge Fuente stated that Petitioner is “extremely prepared, very effective in

cross-examination, very effective in just getting very real with jurors.” (p. 45, lns. 4-6). Judge Fuente called Petitioner “very professional [with opposing counsel] and extremely professional with the court . . . there is nothing I could say negative about anything that I have ever seen him do at least in front of me.” (p. 45, lns. 10-14). Judge Fuente continued that Petitioner “has enjoyed an extremely good reputation amongst the members of the Bar,” (p. 45, lns. 17-18) and that other judges “think he is very effective and good.” (p. 46, lns. 2-3). Commenting on Petitioner’s ethical behavior, Judge Fuente stated that “my experiences with [Petitioner] have all been extremely positive. I just think he is a very personable guy, very ethical guy and a sociable guy . . . I have never been disappointed in anything that he has done.” (p. 46, lns. 15-21). Speaking to Petitioner’s Bar violations, Judge Fuente stated that, while he “would not condone” Petitioner’s actions, Petitioner “served his punishment, if you will. I don’t think that should prevent him from ever practicing law again by any means.” (p. 47, lns. 10-16).

7. Honorable Daniel H. Sleet, judge with the Second District Court of Appeal, who prior was a circuit court judge for seven (7) years with the Thirteenth Judicial Circuit, stated that Petitioner had appeared before him “20, 25 times for various cases.” (p. 50, ln. 16). Judge Sleet stated that Petitioner “was very professional, very ethical,” (p. 50, ln. 25 – p. 51, ln. 1), noting that Petitioner “was always prepared. He was punctual. He knew the rules well. He tried a good case. He was just always prepared, always professional, ethical.” (p. 51, lns. 4-5). Judge Sleet was “quite surprised by these allegations because [he] always thought of [Petitioner] as a fine attorney.” (p. 51, lns. 17-19). Judge Sleet stated that Petitioner’s violative behavior “seemed to be an aberration;” (p. 53, ln. 5) “[d]oes it affect my opinion, no. From my contact with [Petitioner], all I know is that he was an effective, ethical, professional attorney in front of me. He was one of the better ones.” (p. 53, lns. 13-16).
8. Tenesia Brown, a former client of Petitioner, appeared to testify on Petitioner’s behalf despite the death of her father on the day of the Final Hearing “because Ron [Kurpiers] is family to me.” (p. 57, lns. 18-19). She testified that Petitioner took her case after her

former attorney dropped her when her “aggravated child abuse . . . charges became upgraded to first-degree murder.” (p. 54, lns. 23-25). Ms. Brown had paid her former attorney \$75,000.00 before getting to trial; Petitioner took her case for “a \$5,000.00 retainer. And from that point on, [Petitioner] just started working with me and my family.” (p. 56, lns. 9-11). Ms. Brown, who was acquitted, stated: “I really appreciate[d] everything [Petitioner] did just from working with me because no one would believe me.” (p. 57, lns. 19-21).

9. Herbert Jackson Youngblood, III, former defensive end for the University of Florida and inductee into the National Football League Hall of Fame, stated that he knew Petitioner from his time as “general counsel for the [Arena Football] league,” of which Mr. Youngblood was president. (p. 61, lns. 7-8). Over four (4) years, Mr. Youngblood interacted with Petitioner “at least once a week.” (p. 61, ln. 23). Mr. Youngblood stated: “I trust [Petitioner] with anything and everything that I have.” (p. 62, lns. 12-13). Mr. Youngblood noted that Petitioner “realizes that he made a mistake . . . [but said] [t]here is no question in my mind that this is something that has made [Petitioner] a better man.” (p. 62, lns. 18-24).
10. Michael Maddux, member of The Florida Bar since 1992 and a Board Certified Trial Attorney since 1999, testified that he had litigated cases with Petitioner, stating that he “was very impressed with [Petitioner’s] professionalism.” (p. 68, lns. 8-9). Mr. Maddux called Petitioner’s reputation for professional ability “[o]utstanding.” (p. 69, ln. 18). He also noted that Petitioner “has a high ethical standard,” (p. 70, lns. 3-4) stating that “I know for a fact that I have talked with [Petitioner] many times about this [Florida Bar matter], and that the remorse is genuine.” (p. 70, lns. 7-9). Mr. Maddux also noted his involvement with I Matter Too, an organization dedicated to mentoring children in Christianity, with which Petitioner “has done a lot of community service.” (p. 72, lns. 4-5). Mr. Maddux stated that Petitioner has made “a big difference in these people’s lives.” (p. 73, lns. 19-20).
11. Richard Watts, member of The Florida Bar since 1980, hired Petitioner during his suspension as a clerk to aid Mr. Watts in the

preparation of a case. (p. 75, lns. 21-22). Mr. Watts stated that Petitioner “did wonderful work,” (p. 76, ln. 17), often working late and then leaving the office to do volunteer work. Mr. Watts stated Petitioner is of “[e]xcellent moral character . . . [who] understood what he had done. He understood what he needed to do to redeem himself, and he put his mind and effort to that.” (p. 77, lns. 7-11). Mr. Watts stated that Petitioner “gave to me . . . the ethical spirit that you need to have to conduct yourself in this business every day. And it also renewed my commitment to the practice of law.” (p. 77, lns. 14-19). Petitioner “gives [Mr. Watts] the courage to get up and do every day – and be grateful for the opportunity and see what it would be like to have lost that and want it back.” (p. 77, lns. 21-24).

12. Andrew Crawford, member of The Florida Bar since 2004 and Board Certified in Criminal Trial Law, also employed Petitioner as a clerk during his suspension, noting that Petitioner’s work was “[o]utstanding.” (p. 81, ln. 4). Mr. Crawford stated that Petitioner “has an outstanding character. This [Florida Bar matter] was something that was not typical for [Petitioner].” (p. 81, ln. 25 – p. 82, lns. 1-2).
13. Bjorn E. Brunvand, member of The Florida Bar since 1989 and Board Certified in Criminal Trial Law, testified that he has known Petitioner for a “number of years.” (p. 83, ln. 16). Mr. Brunvand stated that Petitioner’s “reputation is that he is very professional, very thorough, excellent attorney.” (p. 84, lns. 1-2). Mr. Brunvand stated that Petitioner “is probably one of the best attorneys and has the best ability as a trial lawyer than just about anybody I know.” (p. 85, lns. 3-5). Mr. Brunvand stated that Petitioner is “extremely remorseful” about the conduct in which he engaged. (p. 85, ln. 12).
14. Mark P. Rankin, member of The Florida Bar since 1999 and partner with the Tampa law firm of Shutts & Bowen, stated that he has known Petitioner for approximately ten (10) years. He noted that Petitioner “has an excellent reputation,” (p. 88, ln. 17), and is “extremely remorseful . . . [and] very embarrassed. He obviously wishes he could go back and do things differently. He is eager to

get back to practicing and to proving that he is rehabilitated and make up for that going forward.” (p. 89, lns. 10-15).

15. Patrick Kane, member of The Florida Bar since 1989, when asked about Petitioner’s ethical behavior in the practice as observed by Mr. Kane, stated that Petitioner “was the best.” (p. 95, ln. 15). Mr. Kane’s impression of Petitioner during a case in which he was co-counsel was: “that’s what the essence of being a lawyer is, how Mr. Kurpiers conducted himself.” (p. 95, lns. 22-23). Petitioner has “expressed great remorse over what had happened [with the Bar]” to Mr. Kane. (p. 96, lns. 12-13).
16. Timothy J. Fitzgerald, member of The Florida Bar since 1988, called Petitioner “an outstanding trial lawyer,” (p. 98, ln. 11), with “an excellent reputation as a trial lawyer and an excellent reputation as a person.” (p. 99, lns. 22-23). In discussions with Petitioner about his suspension from the Bar, Petitioner “blames himself repeatedly. Aside from the punishment imposed by the Bar, [Petitioner] is more upset that he embarrassed and humiliated himself; that he didn’t act – it was contrary to the way he normally does things.” (p. 100, lns. 4-8).
17. Linda Courtney Clark, member of The Florida Bar since 2001, testified that she “worked seven cases” with Petitioner in 2010. (p. 102, ln. 2). When asked about Petitioner’s ethical behavior, Ms. Clark stated: “It was phenomenal. He was ethical. He was respectful.” (p. 106, lns. 8-9). Ms. Clark noted Petitioner was “sincerely remorseful.” (p. 107, ln. 24).
18. David Fulton Swafford, former client of Petitioner, stated that Petitioner “did a wonderful job” representing him. (P. 113, ln. 22). Further, Petitioner “never charged [Mr. Swafford] a dime.” (p. 115, ln. 18).
19. George Scott, former Internal Revenue Service criminal investigator for twenty-five (25) years and current private investigator, testified that he has known Petitioner since approximately 2005-2006. (p. 118, ln. 13). In working on cases with Petitioner since that time, Mr. Scott has “never had any reason

to doubt anything about [Petitioner's] ethical behavior, and I think I know him pretty well." (p. 120, lns. 6-8). Mr. Scott also testified to Petitioner's "tremendous community service." (p. 120, lns. 20-21).

20. David Cooper, business owner of a public relations firm and New York University adjunct professor, testified that he has known Petitioner for nearly eighteen (18) years. (p. 123, ln. 7). Mr. Cooper worked closely with Petitioner whilst employed by the Arena Football League. (p. 124, ln. 8). Mr. Cooper stated that Petitioner was "someone of the highest integrity, professionalism, and someone that I could certainly trust my life, my family, my business with." (p. 125, lns. 1-4). Mr. Cooper testified to the "countless hours" Petitioner dedicated to "improv[ing] other people's lives" through volunteer work. (p. 126, lns. 20-22).

21. Patrick J. O'Meara, Senior Vice President in charge of Global Corporate Security for Bank of America's Midwest Division, who prior spent twenty-one (21) years as a police officer in Chicago, Illinois, worked with Petitioner when Petitioner was an Assistant United States Attorney. (p. 138, 139). Mr. O'Meara stated that Petitioner "is probably the finest prosecutor that I have ever come in contact with." (p. 139, lns. 23-24). Mr. O'Meara testified that Petitioner's moral character was "beyond reproach." (p. 141, ln. 20). Mr. O'Meara testified that he has spoken to Petitioner "a number of times," (p. 143, ln. 9), since his arrest, stating that he "still [has] the utmost faith and confidence in [Petitioner's] integrity." (p. 143, ln. 25 – p. 144, ln. 1).

G. During the period of his suspension, Petitioner also performed approximately six hundred and fifty (650) hours of community service with three (3) separate non-profit organizations: Metropolitan Ministries, Ronald McDonald House and Meals on Wheels. Petitioner also volunteers as a tutor/mentor for "I Matter Too," which is an organization that mentors and tutors abused, neglected and orphaned children. Petitioner took four (4) hours of training and now meets once a week with his assigned child for one (1) hour where he helps him with his reading. They have hit it off and have built a friendship and bond between them. (p. 164, lns 3-18). This service was

probably well beyond anything The Florida Bar could have expected or asked of him and was quite impressive, not only for its quantity but also for its quality.

- H. Petitioner has expressed no malice or ill-will toward those who were duty bound to conduct the disciplinary proceedings, which resulted in his suspension. Petitioner has taken responsibility for his situation. Moreover, Petitioner's testimony as to his remorse was both quantitatively and qualitatively convincing.
- I. Since his suspension began, Petitioner has been employed by various attorneys, two of whom testified on his behalf, in a clerking position. Petitioner's employers were very specific that he had not had any client contact during this employment. This further indicates that he continues to acknowledge the limitation upon him in regard to staying away from clients and the conduct of litigation.
- J. The Florida Bar opposed reinstatement based on Petitioner's tax issues. Petitioner testified that he had a lien imposed for the 2003 tax year and a lien for \$143,545.64 for the 2004 tax year. Petitioner testified that the 2004 tax lien was the result of an unexpectedly high amount of income being attributed to him from the firm he left in 2004. Both liens were paid in 2006. Petitioner also testified that he did not file his 2007 tax return in a timely manner and that he did not realize that he had not filed his 2007 return until he contacted his accountant to file his 2008 return. Petitioner testified that, in 2009, while trying to file for 2007 and 2008, all of his financial data in QuickBooks was inadvertently erased. Petitioner had to re-create his data, which he completed in late 2011. Petitioner then filed his returns for 2007, 2008, 2009, 2010, and 2011 in early 2012. Petitioner had a cumulative deficiency of slightly more than \$70,000, for which he has entered into a payment plan with the IRS. Petitioner began making monthly payments in April 2013, prior to approval of the payment plan, and continued making payments through approval of the payment plan in July 2013 and through the date of the hearing. I agree with the Bar that one would ordinarily expect Petitioner to have learned to be more attentive to his tax issues after the six-figure lien for the 2004 tax lien. However, Petitioner's testimony and demeanor demonstrate that his suspension has been an eye-opening experience for him and that his

perspective on life has fundamentally changed - Respondent took responsibility for his issues. Accordingly, I do not believe that his tax situation should preclude his reinstatement.

III. Recommendations as to Whether the Petitioner Should be Reinstated: After thoroughly investigating the Petition for Reinstatement, the evidence indicates that all of the elements of reinstatement as required under Rule 3-7.10, Rules Regulating The Florida Bar, have been met. Accordingly, this Referee hereby recommends that Petitioner be reinstated to the practice of law in Florida as a member in good standing with The Florida Bar, with the conditions that Petitioner be placed on probation for a period of three (3) years to allow the Bar to monitor Petitioner's compliance with his IRS payment plan.

IV. Personal History and Past Disciplinary Record:

Ronald James Kurpiers, II

Age: 52

Date admitted to Bar: July 24, 2002

Pursuant to an order from the Supreme Court of Florida dated May 22, 2012, in Case Number SC11-486, Petitioner was suspended from the practice of law for ninety-one (91) days, effective June 21, 2012, for violating Rules 4-8.4(c) and Rule 4-8.4(d) of the Rules Regulating The Florida Bar.

Pursuant to an order from the Supreme Court of Florida dated March 11, 2013, in Case Number SC12-1696, Petitioner was issued a Public Reprimand.

VII. Statement of Costs and Manner in Which Costs Should Be Taxed: This Referee finds the following costs were reasonable incurred by The Florida Bar.

Administrative Costs Pursuant to

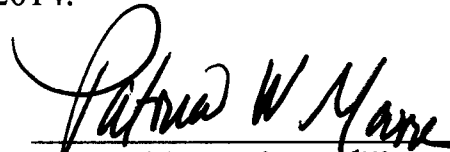
Rule 3-7.6(q)(1)(I).....	\$1,250.00
Investigative Costs.....	258.21
Bar Counsel Costs.....	18.08
Court Reporter Costs.....	1,262.40
Less Cost Deposit.....	(500.00)

TOTAL:

\$2,288.69

It is recognized that other costs have or may be incurred. It is recommended that all such costs and expenses together with the foregoing itemized costs be charged to Petitioner, and that interest at the statutory rate shall accrue and be payable beginning thirty (30) days after the judgment in this case becomes final unless a waiver is granted by the Board of Governors of The Florida Bar.

Dated the 13th day of January 2014.



Honorable Patrice Williams-Moore,
Referee

Original Report of Referee to Supreme Court of Florida with Referee's original file.

Copies furnished to:

Troy Matthew Lovell, Esquire
Scott Kevork Tozian, Esquire