

**NEWS**

# Torres: It's official. Prosecutor guilty of misconduct cannot practice law for two years

**John A. Torres**

Florida Today

Published 5:23 a.m. ET Sept. 21, 2023 | Updated 5:23 a.m. ET Sept. 21, 2023

It's official.

The assistant state attorney who presented and encouraged false testimony during a 2022 battery case cannot practice law for a period of two years. Assistant State Attorney Bryon Aven, pleaded guilty to the charges several weeks ago during a plea agreement reached with the Florida Bar Association, but the Florida Supreme Court had to uphold the plea agreement.

So, what happens now?

"A two-year suspension from the practice of law is severe and rarely imposed. Aven has 30 days to wrap his legal work unless he files a Motion for Rehearing, which is highly unlikely since The Florida Supreme Court accepted his Conditional Guilty Plea for Consent Judgment," said Melbourne attorney Doug Beam, who has defended attorneys facing charges from the Florida Bar and who regularly handles ethics cases.

Though that 30-day period ends Oct. 14, Aven submitted his resignation effective Oct. 2, according to a spokesperson with the State Attorney's Office.

During the 2022 battery trial, Aven knowingly presented false information that contradicted a surveillance video he admitted into evidence but did not "publish," meaning show it to the jury. The judge ordered the video to be played without the jury present, then held a hearing for a motion to mistrial when he discovered the contents.

During the mistrial hearing, Aven took the stand and denied any wrongdoing and refused to concede there was false testimony. It was only after his second chair, prosecutor Chris

Cusmano, told the State Attorney Office's Division Chief Bill Respass and Aven that his own testimony was going to be different that Aven went back on the stand and admitted wrongdoing.

Cusmano, now running for State Attorney, said he was shocked at Aven's actions. He resigned from the office when State Attorney Phil Archer refused to fire Aven. Archer is not seeking reelection.

Aven's actions sent ripples throughout Brevard County's legal system.

"I find this situation incredibly frustrating on two fronts," said Melbourne defense attorney Scott Robinson. "First, prosecutors hold immense power within our legal system, and any abuse of that power is deeply concerning. Second and more importantly, the fact that this misconduct occurred in a seemingly minor case raises questions about whether such actions were normal or routine."

Aven was previously reprimanded by the Florida Bar in 2021 for actions while running for judge in the 5th Judicial Circuit. The Florida Supreme Court's reprimand order contained two dissenting opinions. Justices Charles Canady and Jorge Labarga both wrote that Aven deserved *more* than just a reprimand.

A few months later, Aven lost his job with the State Attorney's office in the 5th Judicial Circuit for his handling of cases and absenteeism. Assistant State Attorney Walter Forgie of the 5th Circuit said the parting of ways was for "a pattern of behavior that fell short of the expectations."

It's fascinating then that Brevard County State Attorney Phil Archer would think it a good idea to hire Aven and keep him on even after the misconduct came to light. He was removed from the courtroom and assigned to the intake division, where he decided what cases that occur in the Titusville area go forward for prosecution.

Attorney Daniel Martinez, who was the defense attorney in the case that ended in prosecutorial misconduct, said it was a mistake for the State Attorney to keep Aven employed after the misconduct.

"Allowing any assistant state attorney to continue to prosecute cases or file charges following the finding of prosecutorial misconduct is problematic and erodes the public's trust in our criminal justice system," Martinez said. "I am confident that the Brevard County State Attorney's Office will ultimately make the right call."

**More on this case:** Torres: Former assistant state attorney shows integrity by quitting  
Beam thinks Aven is very lucky the latest punishment wasn't harsher.

"Aven may have salvaged his legal career by the plea deal," Beam said. "The prior misconduct on his record coupled with this latest case could have led to disbarment. A two-year suspension is a positive outcome for Aven given the alternatives."

There had been speculation in the legal community that Aven would continue working for the State Attorney's Office in a non-lawyer role while he serves out his suspension, which did not sit well with many attorneys.

"The fact that Mr. Aven has been suspended by the Florida Supreme Court suggests that he should not be allowed to work in any job that is related to law," said defense attorney Steve Casanova.

Added attorney Jessica Travis: "The Office of the State Attorney represents the people and should seek justice with transparency and integrity. How can the people be assured that our judicial system is fair when the Office employs unethical prosecutors? Let's hope the next elected State Attorney will only employ attorneys who seek justice, not wins at all cost."

The State Attorney's Office has not clarified Aven's job status as of Wednesday afternoon.

According to Beam, getting reinstated after the two-year suspension is not automatic.

"Getting back to the practice of law is no piece of cake," Beam said. "Aven will have to prove to The Florida Bar that he is fit to practice law after the two-year suspension. If Aven should misstep while suspended, The Florida Supreme Court can disbar him."

*Contact Torres at [jtorres@floridatoday.com](mailto:jtorres@floridatoday.com). You can follow him on X @johnalbertorres or on Facebook at [facebook.com/FTjohntorres](https://facebook.com/FTjohntorres).*

**Featured Weekly Ad** 

---



**Stater Bros. Markets**

Valid Sep 19 - Sep 26

**6 Days Left**

---



[See More](#)