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NORTH CAROLINA

WAKE COUNTY

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
95G0861(I)

IN THE MATTER OF)

LUTHER J. BRITT, III)
ATTORNEY AT LAW)

REPRIMAND

On January 11, 1996, the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by the North Carolina State Bar.

Pursuant to section .0113(a) of the Discipline and Disability Rules of the North Carolina State Bar, the Grievance Committee conducted a preliminary hearing. After considering the information available to it, including your response to the letter of notice, the Grievance Committee found probable cause. Probable cause is defined in the rules as "reasonable cause to believe that a member of the North Carolina State Bar is guilty of misconduct justifying disciplinary action."

The rules provide that after a finding of probable cause, the Grievance Committee may determine that the filing of a complaint and a hearing before the Disciplinary Hearing Commission are not required and the Grievance Committee may issue various levels of discipline depending upon the misconduct, the actual or potential injury caused, and any aggravating or mitigating factors. The Grievance Committee may issue an admonition, reprimand, or censure to the respondent attorney.

A reprimand is a written form of discipline more serious than an admonition issued in cases in which an attorney has violated one or more provisions of the Rules of Professional Conduct and has caused harm or potential harm to a client, the administration of justice, the profession, or a member of the public, but the misconduct does not require a censure.

The Grievance Committee was of the opinion that a censure is not required in this case and issues this reprimand to you. As chairman of the Grievance Committee of the North Carolina State Bar, it is now my duty to issue this reprimand and I am certain that you will understand fully the spirit in which this duty is performed.

Between February 1995 and August 1995, members of your staff sent form letters to prosecution witnesses informing them that they may be contacted by investigators or defense attorneys in an effort to gain information to use against the witnesses in court. These letters read in pertinent part "(w)hile this case is being prepared for trial, you may be contacted by member's of the Public Defender's office, their

investigators, or other defense attorneys who will ask you questions about the case and use your answers against you in court." They further stated "you have no obligation what so ever to talk with anyone other than our staff."

These letters were misleading to witnesses because they communicate that defense attorneys and their investigators are simply trying to gain information to use against the witnesses in court. Defense attorneys may not necessarily use information they gather when interviewing prosecution witnesses against the witnesses in court. Defense attorneys have a duty to gather all available, relevant information concerning their client's case before trial.

These letters are also misleading to witnesses because it implies that witnesses have an obligation to talk with representatives from your office when, in fact, the witnesses have no obligation to talk with anyone including representatives from your office.

By sending these misleading letters to prosecution witnesses, you engaged in conduct prejudicial to the administration of justice in violation of Rule 1.2(d).

You are hereby reprimanded by the North Carolina State Bar due to your professional misconduct. The Grievance Committee trusts that you will heed this reprimand, that it will be remembered by you, that it will be beneficial to you, and that you will never again allow yourself to depart from adherence to the high ethical standards of the legal profession.

In accordance with the policy adopted October 15, 1981 by the Council of the North Carolina State Bar regarding the taxing of the administrative and investigative costs to any attorney issued a reprimand by the Grievance Committee, the costs of this action in the amount of \$50.00 are hereby taxed to you.

Done and ordered, this 15th day of March, 1996.



Ann Reed
Chairman, Grievance Committee
The North Carolina State Bar