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STATE OF NORTH CAROLINA

COUNTY OF WAKE

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
94G1464 (II)

IN THE MATTER OF

JOSEPH M. LUZZI
ATTORNEY AT LAW

REPRIMAND

On July 20, 1995, the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by Scott H. McCulloch, Esq.

Pursuant to section 13(A) of article IX of the Rules and Regulations 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.

Jose Lopez paid you \$100.00 in the fall of 1994 to obtain a limited driving privilege for him. On or about November 1, 1994, you requested that Judge George Greene sign a limited driving privilege for Lopez. You represented to Judge Greene that Lopez was eligible for the privilege when, in fact, Lopez was not eligible because he had two driving while impaired convictions in

a five year period on his record. He had received a level two sentence under Judge Stafford Bullock.

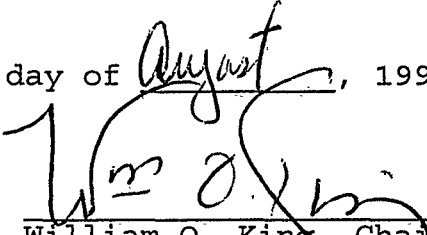
You knew or should have known that Lopez was not eligible for a privilege. First, Lopez had been represented by Philip Redwine when Lopez pled guilty in February 1994. The conviction was appealed to Superior Court and remanded in August 1994. You maintain that you asked Judge Greene to sign the limited privilege based on Lopez's description of the district court judge; however, you knew or should have known that Judge Greene had not been a district court judge for several years. It would have involved very little effort on your part to have checked Lopez's record and court file in this matter. You should have checked Lopez's record under these circumstances to see if he was eligible for a privilege. Your conduct indicates at the very least, a reckless disregard for the facts. Notably, there was not a copy of the privilege in the court file nor was a copy sent to the Department of Motor Vehicles. The comment to Rule 7.2 reads in part: "[a]n assertion purporting to be of the lawyer's own knowledge . . . may properly be made only when the lawyer knows the assertion is true or believes it to be true on the basis of a reasonably diligent inquiry" (emphasis added).

By representing to Judge Greene that Jose Lopez was eligible for a limited driving privilege when Lopez was not eligible for such a privilege because of two driving while impaired convictions in five years, you engaged in conduct prejudicial to the administration of justice in violation of Rule 1.2(d). You also violated Rule 7.2(a)(4) by incorrectly representing to Judge Greene that Lopez was eligible for a limited driving privilege when you had failed to make a reasonably diligent inquiry.

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 28th day of August, 1995.



William O. King, Chairman
The Grievance Committee
North Carolina State Bar