
In the Matter of the Complaint of
JOHN GREGORY LAMBROS, #00436-124
U.S. Penitentiary Leavenworth
P.O. Box 1000
Leavenworth, KS 66048-1000
against JOSEPH T. WALBRAN,
an Attorney at Law of
the State of Minnesota.

**DETERMINATION THAT
DISCIPLINE IS NOT
WARRANTED, WITHOUT
INVESTIGATION**

TO: Complainant and the Respondent Attorney Above-Named:

After reviewing the documents submitted by the complainant, the Director has determined not to investigate this complaint pursuant to Rule 8(d)(1), Rules on Lawyers Professional Responsibility. The reasons for the Director's decision not to investigate this complaint are as follows:

Complaint Summary

In 1976 complainant pled guilty to two criminal indictments in federal district court. Complainant is currently serving time in Leavenworth, Kansas, on non-related offenses. Complainant was represented by privately retained counsel. Respondent was the U.S. Assistant Attorney who prosecuted complainant. Complainant alleges that respondent engaged in conduct involving dishonesty, fraud and deceit when he prosecuted him in 1976. More specifically, complainant alleges that respondent failed to present the grand jury with proof of the federal government's jurisdiction in the criminal indictment. Complainant alleges that the federal government did not have jurisdiction and, therefore, he was wrongly prosecuted.

Reasons for Decision not to Investigate

This complaint alleges abuse of prosecutorial discretion in initiating charges against an individual. Prosecutors have discretion to decide against whom they will initiate criminal charges, and also the nature of the charges, if any. Absent clear abuse, this Office will not review an exercise of prosecutorial discretion. The allegations of this complaint do not establish any abuse of discretion. Furthermore, complainant's allegation that the criminal indictment was flawed because the federal government did not have jurisdiction should have been raised on appeal or through other post-conviction proceedings. However, due to the fact that complainant has already served his time on the offenses charged and the significant passage of time, any post-conviction relief for complainant may be limited.

Finally, the Director notes that over 25 years has elapsed since the conduct in this complaint allegedly occurred. The facts of a complaint must be proven by clear and convincing evidence. A significant passage of time impedes and oftentimes prevents the Director's Office from being able to investigate a complaint. For this and the above-stated reasons, the Director declines to investigate this matter further.

The Director's Office is limited to investigating complaints of unprofessional conduct and prosecuting disciplinary actions against attorneys. It cannot represent complainants in any legal matter or give legal advice. Complainant must retain an attorney if either legal advice or representation is desired.

NOTICE OF COMPLAINANT'S RIGHT TO APPEAL

If the complainant is not satisfied with the Director's determination not to investigate this complaint, an appeal may be made by notifying the Director in a letter postmarked no later than fourteen (14) days after the date of this notice. The letter of appeal should state the reason(s) why the complainant believes the matter should be investigated. A Lawyers Professional Responsibility Board member will review the appeal. The Lawyers Board is comprised of 14 lawyers and 9 non-lawyers appointed by the Minnesota Supreme Court. Appeals are assigned to individual Lawyers Board members in rotation according to when they are received. The Board members' options on appeal are limited to either approving the Director's decision not to investigate the complaint or directing that the complaint or some portion of the complaint be investigated. This determination will generally be based upon the information which is already contained in the file.

Enclosed with this notice to the respondent attorney is a copy of complainant's complaint.

Dated: April 12, 2002.

EDWARD J. CLEARY
DIRECTOR OF THE OFFICE OF LAWYERS
PROFESSIONAL RESPONSIBILITY
25 Constitution Avenue, Suite 105
St. Paul, MN 55155-1500
(651) 296-3952

By 
Kenneth L. Jorgensen
First Assistant Director