
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 COLJA F. CEISEL,
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

Complainant is incarcerated in the federal penitentiary in Leavenworth, Kansas. Respondent represented complainant at a 1997 hearing regarding a re-sentencing matter. Complainant asserts that respondent failed to adequately represent his interests by failing to request that the presiding judge recuse himself pursuant to Title 28 U.S.C. § 455 which prohibits a United States district court judge to adjudicate a case that he or she was involved with as United States attorney.

Reasons for Decision Not to Investigate

First, it is not clear whether complainant's interpretation or application of the statute is accurate. Although the statute appears to prohibit judges from presiding over prosecutions brought by his office while acting as United States Attorney, the statute is silent about whether a judge may preside over subsequent prosecutions which take into account at sentencing prior prosecutions commenced while the judge was U.S. Attorney. It is entirely likely that the statute could be construed strictly and that the only prohibited matters are prosecutions commenced while the judge was U.S. Attorney. Here, the file numbers on the prosecutions before Judge Renner indicate they were commenced in 1989 and 1999, long after Judge Renner ceased being the U.S. Attorney.

In any event, resolution of the statute's application is not necessary to determine whether complainant's complaint warrants investigation. Even if the statute did preclude Judge Renner's participation, at most complainant's complaint alleges that respondent did not adequately or effectively represent him. Ineffective assistance of counsel claims are best raised in a post-conviction proceeding, as provided under Minn.

Stat. §§ 590.01-.06, or by appeal, or through the federal courts, or through other post-conviction remedies. Courts presume that attorneys' conduct falls within "the wide range of reasonable professional assistance." *Strickland v. Washington*, 104 S. Ct. 2052 (1984). The Minnesota Supreme Court, to which this Office is accountable, in 1986 adopted the recommendation of its Advisory Committee that this Office should not normally be involved in post-conviction claims of ineffective assistance of counsel unless a court first finds impropriety.

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: November 26, 2001.

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

By 
Kenneth L. Jorgensen
First Assistant Director