

Supreme Court of Florida

No. 66,785

THE FLORIDA BAR, Complainant,

vs.

LOUIS L. SUPRINA, Respondent.

[March 20, 1986]

PER CURIAM.

This disciplinary proceeding is before us on the complaint of The Florida Bar, the report of the referee, and a petition for review filed by the respondent. We have jurisdiction. Art. V, § 15, Fla. Const.

The undisputed facts reflect that, in a letter written on behalf of his client seeking satisfaction of a mortgage, respondent stated, "We can assure you both that if we do not receive the satisfaction timely, we shall do our best to have the court give you both the maximum sentence in jail and in your pocketbooks." The referee recommended that respondent be found guilty of violating The Florida Bar Code of Professional Responsibility Disciplinary Rules 1-102(A)(6) (misconduct reflecting adversely on his fitness to practice law) and 7-105(A) (threatening criminal prosecution solely to gain advantage in a civil matter), and that respondent receive a public reprimand.

Respondent asserts that his letter only paraphrased the penalties and fines for failure of a mortgagee to comply with the provisions of sections 701.05, 775.082, and 775.083, Florida Statutes (1983), and, further, that the notice required under section 701.05 constitutes an exception to D.R. 7-105(A) prohibiting a lawyer from threatening a criminal prosecution solely to gain an advantage in a civil matter. We reject respondent's contentions and find that notice under section 701.05 could have been properly given without threatening criminal prosecution. We approve the referee's findings of fact and the recommended discipline of a public reprimand. The respondent is directed to appear before the Board of Governors of The Florida Bar at its next meeting for imposition of the public reprimand.

Judgment for costs in the amount of \$609.55 is hereby entered against respondent, for which sum let execution issue.

It is so ordered.

ADKINS, OVERTON, McDONALD, EHRLICH, SHAW and BARKETT, JJ., Concur
BOYD, J., Concur in part and dissents in part:
I agree that there was misconduct but would impose only a private reprimand.

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION AND, IF FILED, DETERMINED.

Original Proceeding - The Florida Bar

John F. Harkness, Jr., Executive Director, and John T. Berry,
Staff Counsel, Tallahassee, Florida; and David G. McGunegle,
Bar Counsel, Orlando, Florida,

for Complainant

Louis L. Suprina, in proper person, Winter Haven, Florida,

for Respondent