

IN THE SUPREME COURT OF FLORIDA  
(Before a Referee)

The Florida Bar,  
Complainant,

Supreme Court Case No. 81,809

v.

Michael A. Catalano,  
Respondent,

The Florida Bar File No.  
91-71,669(11D)

\_\_\_\_\_ /

REPORT OF REFEREE

I. Summary of Proceedings: Pursuant to the undersigned being duly appointed as referee to conduct disciplinary proceedings herein according to the Rules of Discipline, hearings were held on the following dates: October 28, 1993, November 1, 1993, November 9, 1993, November 15, 1993, and November 17, 1993.

The following attorneys appeared as counsel for the parties:

For the Florida Bar: Pamela Pride-Chavies, Esq.

For the Respondent: Richard Hersch, Esq.

II. Findings of Fact as to Each Item of Misconduct of Which the Respondent is charged: After considering all the pleadings and evidence before me, pertinent portions of which are commented upon below, I find:

As to Count I

That the Respondent, Michael A. Catalano is guilty of violation of Rule 4-3.3(a)(1) (a lawyer shall not knowingly make a false statement of material fact or law to a tribunal) of the Rules of Professional Conduct, in that he knowingly averred in his Amended and Verified Motion to Issue Rule to Show Cause for Assistant State Attorney Alberto Milian (in and for the 17th Judicial Circuit, Broward County, Florida, Criminal Case # 88-31860 MM 10-A), that said "Mr. Milian agreed in open court, with Judge Lebow that he would cooperate with the defense and see to it that the witnesses appear at time of trial for the Defendant and that they contacted defense counsel before trial . . .," when said averment as to contacting defense counsel before trial was in fact false.

As to Count II

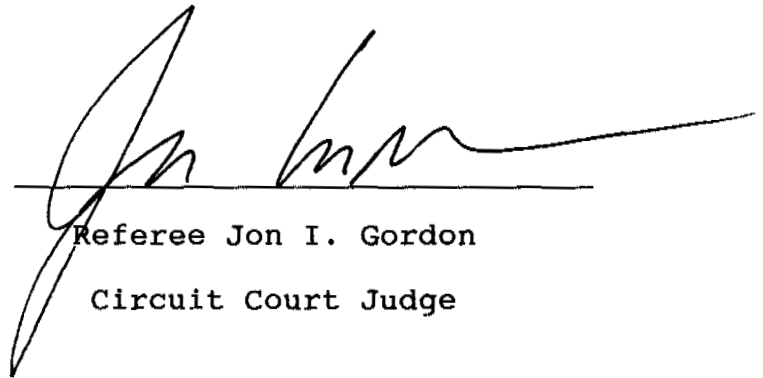
That the Respondent, Michael A. Catalano, is guilty of violation of Rule 4-4.1(a) (in the course of representing a client a lawyer shall not knowingly make a false statement of material fact or law to a third person) of the Rules of Professional Conduct in that he knowingly represented to one John Nixon and to one Lisa Shoop by letter that Judge Lebow had entered an order compelling them to contact Respondent's office, when said representation was in fact false.

As to all other charges, I find the Respondent not guilty.

III. Recommendation as to Disciplinary Measures to be Applied: As to the charges for which the Respondent has been found guilty, I recommend that he receive a public reprimand.

IV. Statement of Costs and Manner in Which Cost Should be Taxed: It is recommended that all cost and expenses be charged to the Respondent.

Dated this 19th day of November, 1993.



---

Referee Jon I. Gordon  
Circuit Court Judge

Certificate of Service

I hereby certify that a copy of the above report of referee has been served on Pamela Pride-Chavies, Esq., at 444 Brickell Avenue, Suite M-100, Miami, Florida 33131, Richard Hersch, Esq., at 2937 S.W. 27th Avenue, Suite 301, Miami, Florida 33133, and John T. Berry, Esq., Staff Counsel, The Florida Bar, 650 Apalachee Parkway, Tallahassee, Florida 32399-2300 this 19th day of November, 1993.



---