

**THE FOLLOWING INFORMAL ADMONITION WAS ISSUED
BY BAR COUNSEL ON
September 22, 2003**

CONFIDENTIAL

Samuel N. Omwenga, Esquire
Law Office of Samuel Omwenga
1717 K Street, N.W.
Suite 600
Washington, D.C. 20036

Re: **Omwenga/Mugo; Bar Docket No. 141-03**

Dear Mr. Omwenga:

This office has completed its investigation of the above-referenced matter. We find that your conduct reflected a disregard of certain ethical standards under the District of Columbia Rules of Professional Conduct (the Rules). We are, therefore, issuing you this Informal Admonition pursuant to Rule XI, Sections 3, 6, and 8 of the District of Columbia Court of Appeals' Rules Governing the Bar (D.C. Bar R.).

We docketed this matter for investigation based on a disciplinary complaint filed by Mr. Mugo. Mr. Mugo states that you advised him not to appear at an Immigration Court hearing as the case had been continued. Later, however, he learned that the Court ordered his deportation as a result of his failure to appear. Mr. Mugo further states that you promised to appeal the deportation order but that you filed the appeal with the wrong court. Finally, Mr. Mugo states that you agreed to file a labor certification application for his wife based upon her employment with The Jewish Hospital in Kentucky but failed to do so.

On May 15, 2002, you responded to Mr. Mugo's complaint. You deny that you advised Mr. Mugo not to go to court on the date in question. You state that you had a conversation with Mr. Mugo several weeks before the hearing and that you discussed the hearing date with Mr. Mugo but did not advise him not to attend. You state that after the order of deportation issued, you filed a motion with the Board on Immigration Appeals ("BIA") to re-open in a timely manner. You state that both the BIA and the Immigration Court concluded that you had not established exceptional circumstances warranting the reopening of the case. You state that in your affidavit submitted with the motion to re-open, you took some responsibility for the missed hearing date in order to assist Mr. Mugo.

You state that you did not agree to file for a labor certificate application for Ms. Mugo. You state that you sent Mr. Mugo prepared documents but that Mr. Mugo was instructed to sign them and file them himself. You state that Mr. Mugo filed the

documents with the INS instead of with the Kentucky Department of Employment Services. However, you state that you found out about the misfiling, had the paper correctly filed and the matter remains pending.

We find as follows. Your affidavit and brief to the Board of Immigration Appeals state that you provided an incorrect hearing date to Mr. Mugo. Specifically, you aver that “I do not know why but somehow I was certain and told him his hearing date was set for April 15, 2001 and herein lies the whole problem: the correct date was March 15, 2001.” The affidavit continues by stating that neither you nor Mr. Mugo appeared for the scheduled hearing.

We assume that the information you provided in your sworn affidavit to the Immigration Court was accurate. You stated that you told your client an incorrect hearing date. Even if you believed that Mr. Mugo had written notice of the hearing date in his possession, if a client requests information from an attorney, the attorney’s response must be accurate. A client relies upon an attorney to provide correct information. We find that your actions are inconsistent with Rule 1.1 (b), which requires a lawyer to serve a client with skill and care. Your failure to provide the correct date when your client requested it and your failure to attend the hearing even in your client’s absence violate Rule 1.1(b).¹

As for the labor certificate application, it appears from the May 14, 2003 letter from the Department of Employment Services to you, that the Department of Employment Services is under the impression that you are acting as Ms. Mugo’s attorney in the process. Department of Employment Services states in its letter that it was returning the Form 750 A and B to you because they were defective. Instead of addressing this in your response to this office, you merely state that the application remains pending and that Mr. Mugo should check the status of the case on the internet. However, the Department of Employment Services letter appears to have been sent to you just a day before your response to this office. We attempted to forward your response to Mr. Mugo’s complaint to Mr. Mugo shortly thereafter, attaching the Department of Employment Services letter.² We assume that you did also. We also assume that you have notified the Department of Employment Services that you do not represent Ms. Mugo on this application to correct

¹ We understand that you anticipated appearing by telephone; but whether in person or by telephone, you agreed to represent your client’s interests at the hearing and did not do so.

² Our letter to Mr. Mugo was returned as undeliverable.

their mistaken assumption that you do. Therefore, we do not make a finding of a Rule violation based upon your failure to pursue the labor certificate application.

This letter constitutes an Informal Admonition pursuant to D.C. Bar Rule XI, §§ 3, 6, and 8 and is public when issued. Please refer to the attachment to this letter of the Informal Admonition for a statement of its effect and your right to have it vacated and have a formal hearing before a Hearing Committee.

If you would like to have a formal hearing, you must submit a written request for a hearing within 14 days of the date of this letter to the Office of Bar Counsel, with a copy to the Board on Professional Responsibility, unless Bar Counsel grants an extension of time. If a hearing is requested, this Informal Admonition will be vacated, and Bar Counsel will institute formal charges pursuant to D.C. Bar R. XI, § 8(b). The case will then be assigned to a Hearing Committee, and a hearing will be scheduled by the Executive Attorney for the Board on Professional Responsibility pursuant to D.C. Bar R. XI, § 8(c). Such a hearing could result in a recommendation to dismiss the charges against you or a recommendation for a finding of culpability, in which case the sanction recommended by the Hearing Committee is not limited to an Informal Admonition.

Sincerely,

Joyce E. Peters
Bar Counsel

Encl.: Attachment to Letter of
Informal Admonition

Sent Regular and Certified Mail No. 7160 3901 9844 1904 6938

cc: Patrick M. Mugo

JEP:EAH:tsm