

NO. 23895

IN THE SUPREME COURT OF THE STATE OF HAWAII

OFFICE OF THE DISCIPLINARY COUNSEL, Petitioner,

vs.

STEPHEN A. LEVINE, Respondent.

DISCIPLINARY BOARD'S REPORT AND RECOMMENDATION
FOR THE SUSPENSION OF STEPHEN A. LEVINE
FROM PRACTICE OF LAW FOR A PERIOD OF 30 DAYS
(ODC 97-195-5389)

ORDER OF SUSPENSION

(By: Moon, C.J., Levinson, Nakayama,
Ramil, Acoba, JJ.)

We have considered the Disciplinary Board's Report and Recommendation for the suspension of Respondent Stephen A. Levine from the practice of law for a period of thirty (30) days, the hearing committee's recommendation for a suspension of six (6) months, Petitioner's arguments for a suspension of three (3) years, Respondent's arguments for a reprimand, and the record. The Disciplinary Board's findings of fact and conclusions of law are supported by the record. We impose a six (6) month suspension.

In sum, Respondent Levine, while a Maui County deputy prosecutor, appeared in the circuit court of the fifth circuit on behalf of a criminal defendant in violation of Rule 1.7(a) of the Hawai'i Rules of Professional Conduct (HRPC). During his appearance, Respondent Levine misrepresented to the circuit court that he had the permission of the Office of Disciplinary Counsel to represent the criminal defendant, notwithstanding that Respondent was serving as a deputy prosecutor. Respondent's

misrepresentation violated HRPC 3.3(a)(1) and HRPC 8.4(c). Respondent Levine misrepresented to his employer that the Office of Disciplinary Counsel approved Respondent's representation of the criminal defendant. Such misrepresentation violated HRPC 8.4(c).

In support of its recommendation of a thirty-day suspension, the Disciplinary Board found, as mitigating factors, that Respondent Levine possesses an exemplary record and reputation in the community, that Respondent Levine had no prior discipline, that Respondent Levine acted without a dishonest or selfish motive, and that Respondent Levine was unlikely to repeat such behavior. In consideration of the appropriate sanction, we have carefully considered the mitigating factors found by the hearing committee and the board, as well as the lengthy passage of time from the incident until completion of these disciplinary proceedings. We view an attorney's misrepresentations to a court as a matter of extreme gravity. But for the mitigating factors, including the passage of time, our grave concerns regarding an attorney's misrepresentations to a court would have resulted in a significantly greater sanction. In light of the above,

IT IS HEREBY ORDERED that Respondent Stephen A. Levine is suspended from the practice of law in this jurisdiction for a period of six months, effective thirty (30) days after entry of this order, as provided by Rule 2.16(c) of the Rules of the Supreme Court of the State of Hawai'i.

DATED: Honolulu, Hawai'i, November 14, 2001.