

DISTRICT II
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OF THE
SUPREME COURT OF PENNSYLVANIA



OFFICE OF DISCIPLINARY COUNSEL

Paul J. Killion
Chief Disciplinary Counsel

Paul J. Burgoyne
Deputy Chief
Disciplinary Counsel

820 Adams Avenue
Suite 170
Trooper, PA 19403
Telephone: (610) 650-8210
Fax: (610) 650-8213
www.padisciplinaryboard.org

May 7, 2008

PERSONAL AND CONFIDENTIAL

Steven R. Newcomb
268 Bonnet Way
Southport, NC 28461

Re: Complaint against
John Choon Yoo, Esquire

Dear Mr. Newcomb:

This is to acknowledge receipt of your complaint recently filed with this office. For the following reasons, your complaint against Mr. Yoo has been dismissed.

There are some important limitations on this office's consideration of any disciplinary complaint.

First, our jurisdiction and authority is limited to attempting to enforce the Pennsylvania Rules of Professional Conduct, a set of minimum ethical standards with which all attorneys must abide. While the Rules are quite broad in their scope, they simply do not prohibit all conduct by an attorney which might be considered as unprofessional, inappropriate, or "unethical."

Second, even though you have filed a complaint, this office does not represent you or your personal interests. We are not your attorney and cannot provide you with any personal legal advice. We cannot attempt to obtain any remedy or damages you might feel you are entitled to nor can we interfere with or intercede in any pending or future legal proceedings you might be involved in.

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A third limitation is that this office, like any other prosecutorial agency, has the burden of proof. Each and every allegation of ethical misconduct must be proven by "clear and convincing" evidence, a standard of proof greater than the "preponderance" standard applicable in a civil proceeding. Surmise, conjecture or even a strong suspicion, will not suffice.

I will now address your complaint within the context of the above-stated limitations.

John Yoo is a member of the bar of the Supreme Court of Pennsylvania. From 2001 through 2003, Mr. Yoo was employed by the Office of Legal Counsel ("OLC") for the United States Department of Justice as a Deputy Assistant Attorney General. In that position, Mr. Yoo authored or co-authored two memoranda addressing the legality of interrogation techniques. The memoranda are dated August 1, 2002 and March 14, 2003. Both memoranda were rescinded by Jack Goldsmith, who became the head of OLC in October 2003.

According to press reports, in February of this year, H. Marshall Jarrett, counsel for the Justice Department's Office of Professional Responsibility, advised two United States senators that his office is investigating the lawyers who authored the memoranda. In addition, the press has reported that the House Judiciary Committee has invited Mr. Yoo to appear at a May hearing investigating the 2003 memorandum.

As a preliminary matter, although Mr. Yoo is a Pennsylvania lawyer, it is not clear that the Pennsylvania Rules of Professional Conduct govern his conduct. Pa.R.P.C. 8.5 provides, in pertinent part, that "[i]n the exercise of the disciplinary authority of this jurisdiction, the rules of professional conduct to be applied shall be as follows:...(2)...the rules of the jurisdiction in which the lawyer's conduct occurred, or, if the predominant effect of the conduct is in a different jurisdiction, the rules of that jurisdiction shall be applied to the conduct." Since none of Mr. Yoo's actions took place in Pennsylvania, either the Rules of Professional Conduct of the District of Columbia or the Department of Justice may apply to his conduct.

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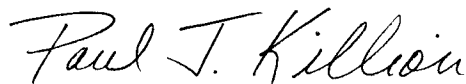
Mr. Yoo is currently a resident of California. Many of the witnesses and documents relevant to an investigation into his conduct are beyond the subpoena power of this office. Furthermore, both the Office of Professional Responsibility and the House Judiciary Committee have significant resources and are already dedicated to conducting such an investigation. In light of the above, this office will defer to the investigations being conducted by the Office of Professional Responsibility and the House Judiciary Committee.

Let me briefly explain the process in which we engage before dismissing a complaint. After reviewing the file and making a determination for the dismissal, I forward the file to another attorney in this office. The second attorney will then review my recommendation and the file and will either concur in or modify my recommendation. In this case the reviewing attorney concurred in my recommendations to dismiss the complaint.

With few exceptions, the attorney disciplinary system is confidential and remains so unless and until formal disciplinary charges are filed by the Office of Disciplinary Counsel against the respondent-attorney with the Disciplinary Board and the respondent-attorney has had the opportunity to answer those charges. Complainants and third parties who maintain the confidentiality of a disciplinary investigation are immune from civil suit based upon their communications with this office. Those who disclose the existence or status of a disciplinary complaint or investigation to anyone other than their own attorney may lose their immunity.

I am sorry we are unable to proceed with an inquiry of your complaint, but I assure you that we dealt with your complaint in a fair and unbiased manner.

Very truly yours,



Paul J. Killion
Chief Disciplinary Counsel

RSW: