

**COUNSEL FOR DISCIPLINE OF THE
NEBRASKA SUPREME COURT**



Counsel for Discipline
DENNIS G. CARLSON

3808 Normal Blvd.
Lincoln, NE 68506
(402) 471-1040
FAX (402) 471-1014

Assistant Counsel
For Discipline
JOHN W. STEELE
KENT L. FROBISH

May 18, 2012

Dr. Richard M. Fleming
1697 Lone Oak Trail
Reno, NV 89523

Dear Dr. Fleming:

On May 18, 2012 this office received the enclosed Memorandum and Order from the United States District Court for the District of Nebraska.

Based upon the findings of Judge Kopf, this office declines to investigate your allegations pursuant to Neb. Ct. Rule §3-309(C).

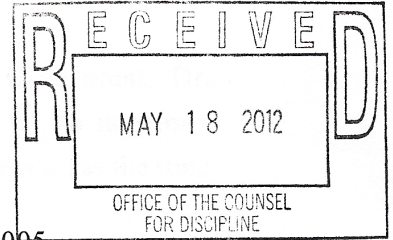
Sincerely,

A handwritten signature in black ink, appearing to read "Dennis G. Carlson".

Dennis G. Carlson
Counsel for Discipline

DGC:ck
Enc.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA



UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
RICHARD FLEMING, a/k/a)
RICHARD M. FLEMING,)
)
Defendant.)
_____)

4:07CR3005
related to
4:10CV3217

MEMORANDUM
AND ORDER

I am in receipt of letter from Dennis G. Carlson, Counsel for Discipline of the State of Nebraska, referring an attached grievance submitted by Richard Fleming (Dr. Fleming) against his court appointed lawyer in the earlier criminal case. That lawyer is Michael Hansen, an Assistant Federal Public Defender. The grievance was referred to me based upon an agreement between the Nebraska Supreme Court and this court. See NEGenR 1.8(c) (Effective December 1, 2011). Because the grievance is frivolous, it will be denied after initial review. NeGenR 1.8 (g)(4)(A).

There is no sense in spending time discussing Dr. Fleming's new complaint against Hansen because I have previously discussed and denied a nearly identical ethics grievance. *Fleming v. United States*, 755 F.Supp2d 1019 (D. Neb. 2010) (holding that: (1) petitioner could not seek relief through § 2241 petition; (2) counsel did not perform deficiently; (3) defendant was not prejudiced by counsel's performance; (4) defendant was bound by his admission of guilt when he entered guilty plea; and (5) ethics complaint first lodged with the Nebraska Counsel for Discipline and referred to the Court was denied with prejudice), *appeal dismissed*, Eighth Circuit No. 11-1109 (March 29, 2011) and *petition for writ of certiorari denied*, United States Supreme Court Number 11-6468 (September 29, 2011). Nothing in Dr. Fleming's second grievance suggests that my previous ruling was incorrect and nothing in that grievance provides any new and meritorious grounds for believing

Hansen failed to faithfully discharge his ethical obligations. To be blunt, Dr. Fleming's new grievance is successive, it is obviously submitted for an improper purpose and it wastes the time of Nebraska's Counsel for Discipline as well as the time of this Court.

I now warn Dr. Fleming that the filing of any additional ethics grievances against Mr. Hansen with the Nebraska Counsel for Discipline or with this Court or otherwise will subject Dr. Fleming to substantial sanctions. Those sanctions may include, but are not limited to, holding Dr. Fleming in contempt of court or revoking or modifying his probation. The continued abuse of the legal process will not be tolerated.

IT IS ORDERED that:

1. In both of these cases, the Clerk shall file the letter from Dennis G. Carlson, Nebraska's Counsel for Discipline, and the attachment together with this Memorandum and Order. These documents will be restricted.
2. Treated as an ethics grievance, the grievance is denied.
3. The Clerk shall open and close an attorney discipline case including a copy of this Memorandum and Order and the grievance in that file.
4. A copy of this Memorandum and Order shall be provided by the Clerk to Dennis G. Carlson, Nebraska's Counsel for Discipline, Magistrate Judge Zwart, Michael Hansen, and Dr. Fleming at his last known address.

May 16, 2012.

BY THE COURT:

Richard G. Kopf
Senior United States District Judge

-2-