

ORDER OF THE SUPREME COURT OF TEXAS

Misc Docket No. 96- 9148

Appointment of a District Judge to Preside
in a State Bar Disciplinary Action

The Supreme Court of Texas hereby appoints the Honorable Leonard Giblin, Jr., Judge of the 252nd District Court of Jefferson County, Texas, to preside in the Disciplinary Action styled:

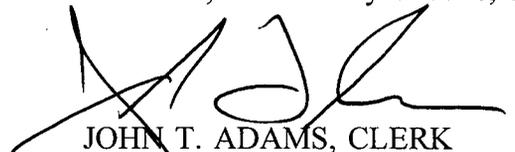
The Commission for Lawyer Discipline v. Stephen W. Boyd

to be filed in a District Court of Bexar County, Texas.

The Clerk of the Supreme Court shall promptly forward to the District Clerk of Bexar County, Texas, a copy of this Order and of the Disciplinary Petition for filing and service pursuant to Rule 3.03, Texas Rules of Disciplinary Procedure.

As ordered by the Supreme Court of Texas, in chambers,

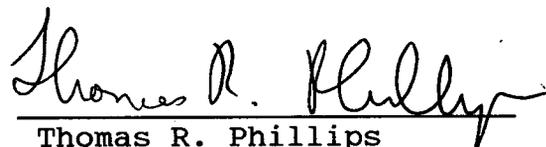
with the Seal thereof affixed at the City
of Austin, this 3rd day of June, 1996.



JOHN T. ADAMS, CLERK
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 96-9148, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code §74.057.

Signed this 4 day of June, 1996.

A handwritten signature in cursive script that reads "Thomas R. Phillips". The signature is written in dark ink and is positioned above a horizontal line.

Thomas R. Phillips
Chief Justice

COPY

No. _____

COMMISSION FOR LAWYER
DISCIPLINE

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§

IN THE DISTRICT COURT OF

V.

BEXAR COUNTY, T E X A S

STEPHEN W. BOYD

___TH JUDICIAL DISTRICT

DISCIPLINARY PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

Comes now, Petitioner, COMMISSION FOR LAWYER DISCIPLINE, a committee of the State Bar of Texas, complaining of Respondent, STEPHEN W. BOYD, and in support thereof would respectfully show the Court the following:

Parties

Petitioner is the COMMISSION FOR LAWYER DISCIPLINE, a committee of the State Bar of Texas. Respondent, STEPHEN W. BOYD, State Bar No. 02777780, is an attorney licensed to practice law in the State of Texas and is a member of the State Bar of Texas. Respondent is a resident of San Antonio, Bexar County, Texas and may be served with process at 8118 Datapoint Drive, San Antonio, Bexar County, Texas 78229-3200, his usual place of business.

Venue

Respondent maintains his principal place of practice in Bexar County, Texas. The alleged professional misconduct occurred in part in Bexar County, Texas. Accordingly, pursuant to Texas Rules of Disciplinary Procedure 3.03, venue is proper in Bexar County, Texas.

Professional Misconduct

I.

Petitioner brings this disciplinary action pursuant to State Bar Act, Tex. Gov't. Code Ann., Sec. 81.001, et seq. (Vernon 1988), the Texas Disciplinary Rules of Professional Conduct and the Texas Rules of Disciplinary Procedure. The complaint which forms the basis of this action was filed on or about December 21, 1995. The acts and conduct of Respondent, as hereinafter alleged, constitute professional misconduct.

II.

On or about December 7, 1988, Respondent was hired by Patricio Hernandez and his wife to pursue a medical negligence claim against Dr. Roberto Cortez and Dr. Roberto Gonzalez. Respondent filed suit on behalf of Mr. & Mrs. Hernandez in the 170th Judicial District Court of McLennan County, Texas. The case was set for trial November 7, 1994. Respondent failed to timely designate expert witnesses and on October 21, 1994, the district court granted the defendant's motion to strike expert witnesses and denied Respondent's motion for continuance.

III.

Following the Court's ruling on the issue of excluding plaintiffs' experts, Respondent contacted Mr. Hernandez and informed him the Judge was not going to allow their experts to testify stating that local politics between the Judge and defense counsel was the basis of the ruling. Respondent did not disclose to Mr. Hernandez the reason for the Court's ruling was the failure of Respondent to designate experts timely.

IV.

Following the Court's rulings on the motion to strike and motion for continuance, by letter

dated October 31, 1994, Respondent attempted to accept an offer to settle the case for \$25,000.00 that had been made by the defendants May 8, 1991. The case was mediated on October 9, 1994 where the \$25,000.00 settlement offer had been rejected. Based on the rejection of the \$25,000.00 offer, the defendants refused to enter into a settlement. After being notified by defendants that there was no settlement, Respondent filed a motion for non-suit that was granted by the court on November 3, 1994.

V.

In late 1994 and in 1995, Mr. Hernandez made numerous telephone calls to Respondent's office in an attempt to obtain a status report on the litigation and to request that Respondent send to him his file. Respondent failed to return the telephone calls, failed to respond to reasonable requests for information, and failed to advise Mr. Hernandez of the status of the claim. By letter dated October 10, 1995, Mr. Hernandez requested in writing that Respondent send to him his entire file. Respondent failed to provide the file to Mr. Hernandez until after the complaint made the basis of this action was filed.

VI.

The conduct of Respondent described above constitutes violations of the following Disciplinary Rules:

Rule 1.01(b)(1) -- In representing a client, a lawyer shall not neglect legal matters entrusted to you.

Rule 1.03(a) -- A lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.

Rule 1.03(b) -- A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representations.

Rule 8.04(a)(3) -- A lawyer shall not engage in conduct involving dishonesty or

misrepresentation.

Rule 1.14(b) -- A lawyer shall promptly deliver to the client * * * other property (client's file) that the client is entitled to receive.

Rule 1.15(d) -- Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as * * * surrendering papers and property (client's file) to which the client is entitled.

PRAAYER

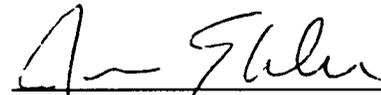
WHEREFORE, PREMISES CONSIDERED, Petitioner prays that a judgment of professional misconduct be entered against Respondent imposing an appropriate sanction as the facts shall warrant and that Petitioner have such other relief to which it is entitled, including costs of court and attorney's fees.

Respectfully submitted,

James M. McCormack
General Counsel

James Ehler
Assistant General Counsel

Office of the General Counsel
State Bar of Texas
425 Soledad, Suite 300
San Antonio, Texas 78205
Telephone: (210) 271-7881
Telecopier: (210) 271-9642



James Ehler
State Bar No. 06484650
ATTORNEYS FOR PETITIONER

STATE BAR OF TEXAS



CERTIFIED MAIL
RETURN RECEIPT REQUESTED
Z 080 288 192

Office of the General Counsel
Regional Office
Soledad Plaza West
425 Soledad, Suite 300
San Antonio, Texas 78205
(210) 271-7881
FAX: (210) 271-9642

May 8, 1996

John T. Adams, Clerk
Supreme Court of Texas
P.O. Box 12248
Austin, Texas 78711

RE: Commission for Lawyer Discipline v. Stephen W. Boyd; In the District Courts
of Bexar County, Texas

Dear Mr. Adams:

Enclosed please find an original and two (2) copies of a Disciplinary Petition being filed by the Commission for Lawyer Discipline against Stephen W. Boyd. Mr. Boyd has designated Bexar County as his principal place of practice. Request is hereby made that the Court appoint an active District Judge who does not reside in the Administrative Judicial Region in which Respondent practices to preside in this case. Upon appointment, request is made that you notify the Respondent at the address shown below and the undersigned of the identity and address of the judge assigned:

Stephen W. Boyd
The Ariel House
8118 Datapoint Drive
San Antonio, Texas 78229-3268

As a practical matter, I would respectfully suggest that you inquire with the judge to be appointed as to whether he or she will be able to comply with the 180 day deadline by which the case must be set for trial as set forth in Section 3.07 of the Texas Rules of Disciplinary Procedure. If not, I would respectfully request that an alternate appointment be made.

Once a trial judge has been appointed, please forward the original and two (2) copies of the Disciplinary Petition and the filing fee check, also enclosed herewith, and the Court's appointing order to the District Clerk of Bexar County, Texas, with the request that the suit be filed, service be obtained, and a filemarked copy of the petition returned to the undersigned.

Also enclosed are a pre-addressed envelope for your use in transmitting the petition, etc., to the District Clerk of Bexar County, Texas and a return envelope to be sent to the District Clerk of Bexar County, Texas, for the Clerk's use in returning a filemarked copy of the petition to the undersigned.

Thank you for your courtesies in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Ehler". The signature is written in a cursive style with a large initial "J" and a long, sweeping underline.

James Ehler
Assistant General Counsel

Enclosures

JE/mc



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

POST OFFICE BOX 12248 AUSTIN, TEXAS 78711

TEL: (512) 463-1312

FAX: (512) 463-1365

CLERK
JOHN T. ADAMS

EXECUTIVE ASS'T
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

JUSTICES
RAUL A. GONZALEZ
NATHAN L. HECHT
JOHN CORNYN
CRAIG ENOCH
ROSE SPECTOR
PRISCILLA R. OWEN
JAMES A. BAKER
GREG ABBOTT

June 5, 1996

Honorable Leonard Giblin, Jr.
Judge, 252nd District Court
1001 Pearl Street
Beaumont, Texas 77701

Dear Judge Giblin:

We enclose for your information a copy of the order of assignment, a copy of the Disciplinary Action, a copy of the notification letter to Mr. Boyd and Mr. McCormack, and a copy of the letter to the District Clerk of Bexar County.

It is recommended that, six to eight weeks after receipt of this letter, you or your coordinator contact the Bexar County Administrative Office (210-220-2300) to find out the district court to which this disciplinary case has been assigned, names and addresses of counsel, etc. We then recommend that, either before or immediately after you set the case for trial, you contact the Presiding Judge of the Administrative Judicial Region into which you have been assigned (210-769-3519) to reserve a courtroom, obtain a court reporter, obtain claims forms for your expenses incident to presiding over this disciplinary case.

Sincerely,

SIGNED

John T. Adams
Clerk



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

POST OFFICE BOX 12248 AUSTIN, TEXAS 78711

TEL: (512) 463-1312

FAX: (512) 463-1365

June 5, 1996

CLERK
JOHN T. ADAMS

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WILLIAM L. WILLIS

ADMINISTRATIVE ASST
NADINE SCHNEIDER

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ROSE SPECTOR
PRISCILLA R. OWEN
JAMES A. BAKER
GREG ABBOTT

The Honorable David J. Garcia
District Clerk of Bexar County
100 Dolorosa Street
San Antonio, Texas 78205-1205

Dear Mr. Garcia:

Pursuant to Rule 3.03 of the Texas Rules of Disciplinary Procedure, I am sending for filing State Bar of Texas Disciplinary Action styled: The Commission for Lawyer Discipline v. Stephen W. Boyd, and a copy of the Supreme Court's order appointing the Honorable Leonard Giblin, Jr., Judge of the 252nd District Court, Beaumont, Texas, to preside in this Disciplinary Action.

Sincerely,

SIGNED

John T. Adams
Clerk

cc: Hon. Leonard Giblin, Jr.
Mr. Stephen W. Boyd
Mr. James M. McCormack



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

POST OFFICE BOX 12248 AUSTIN, TEXAS 78711

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JAMES A. BAKER
GREG ABBOTT

June 5, 1996

Mr. James M. McCormack
General Counsel, State Bar of Texas
P.O. Box 12487
Austin, Texas 78711

Mr. Stephen W. Boyd
The Ariel House
8118 Datapoint Drive
San Antonio, Texas 78229-3268

Dear Mr. McCormack and Mr. Boyd:

Pursuant to Rule 3.02 of the Texas Rules of Disciplinary Procedure, I hereby notify you that the Supreme Court of Texas has appointed the Honorable Leonard Giblin, Jr., Judge of the 252nd District Court, Beaumont, Texas to preside in

Commission for Lawyer Discipline v. Stephen W. Boyd

Sincerely,

SIGNED

John T. Adams
Clerk