

IN THE SUPREME COURT OF THE STATE OF TEXAS

Misc. Docket No. 95- 9140

IN THE MATTER OF

JAMES T. ALLEN

ORDER

On this day came on for consideration the Motion for Acceptance of Resignation as Attorney and Counselor at Law of James T. Allen together with the Response filed by the Chief Disciplinary Counsel of the State Bar of Texas acting through the Commission for Lawyer Discipline. The Court has reviewed said Motion and the Response and finds each to be legally sufficient. The Court, being advised that such resignation is tendered in lieu of disciplinary action, and being of the opinion that such resignation is in the best interest of the public and of the profession and will meet the ends of justice, hereby concludes that the following Order is appropriate.

It is ORDERED that the law license of James T. Allen heretofore issued by this court, be, and the same is hereby cancelled and revoked and his name be, and is hereby, removed and deleted from the list of persons licensed to practice law in the State of Texas. Receipt of the license issued by this Court to James T. Allen, and the affidavit of Allen's counsel regarding the loss, destruction or misplacement of his permanent State Bar card is hereby acknowledged.

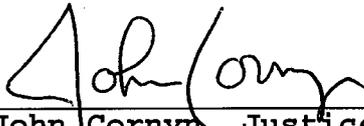
By the Court, en banc, in chambers, this the 6th day
of July, 1995.


Thomas R. Phillips, Chief Justice


Raul A. Gonzalez, Justice

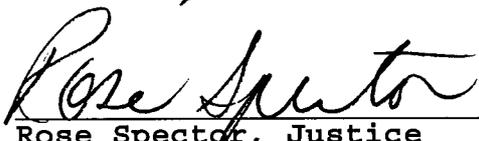

Jack Hightower, Justice


Nathan L. Hecht, Justice


John Cornyn, Justice


Bob Gammage, Justice


Craig Enoch, Justice


Rose Spector, Justice


Priscilla R. Owen, Justice

21110500
Attorney's Bar Card Number

Misc. Docket No. 95- 9140

STATE BAR OF TEXAS



June 19, 1995

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

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

Re: Resignation of James T. Allen

Dear Mr. Adams:

As we discussed by phone last week, an affidavit from the Applicant's counsel regarding the lost State Bar card would be acceptable to the Court in this matter. Our office has been provided with an affidavit by Mr. Allen's counsel, Eduardo N. Lerma, and it is enclosed along with an original Order of Resignation for the Court's signature.

If you have any questions please don't hesitate to contact me at the phone number above. Please return a copy of the executed Order to our office at your earliest convenience.

Sincerely,

A handwritten signature in cursive script that reads "Tina M. Gilson".

Tina M. Gilson
Legal Assistant
Office of the General Counsel
State Bar of Texas

Enclosures

xc: Margaret J. Reaves

STATE BAR OF TEXAS



Office of the General Counsel

May 30, 1995

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

Re: James T. Allen

Dear Mr. Adams:

Pursuant to Part X of the Texas Rules of Disciplinary Procedure, please find enclosed herewith the following:

- (1) Original executed Motion for Acceptance of Resignation as Attorney and Counselor at Law for the above referenced attorney;
- (2) Original and two (2) copies of the Response of the Chief Disciplinary Counsel to Motion for Acceptance of Resignation as Attorney and Counselor at Law for the above referenced attorney; and
- (3) Permanent State Bar Card and law license (or affidavit stating whereabouts of either item) for the above referenced attorney. (No Bar Card produced by Applicant; only law license enclosed. No affidavit produced, but see page 1, Motion...)
- (4) Original Order of Resignation for the Court's signature.

Pursuant to Rule 10.02 of the Texas Rules of Disciplinary Procedure, the required ten (10) day timeframe has passed and the above-referenced attorney has made no attempt to withdraw the Motion for Acceptance of Resignation. Therefore, the detailed statement of professional misconduct is deemed to have been conclusively established for all purposes.

I will appreciate your bringing this to the Court's attention.
Please return a fully executed copy of the Order to our office at
your earliest convenience.

Sincerely,


Margaret J. Reaves
Regional Counsel
Office of the Chief Disciplinary Counsel
State Bar of Texas

Enclosure

CF3-24RA.PRI

AFFIDAVIT OF EDUARDO N. LERMA

STATE OF TEXAS

§
§
§

COUNTY OF EL PASO

BEFORE ME, the undersigned authority, on this date personally appeared Eduardo N. Lerma, known to me to be the person whose name is subscribed below and who, having been by me duly sworn, stating upon his oath as follows:

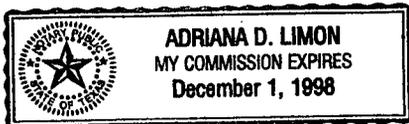
1. "My name is Eduardo N. Lerma. I am over the age of twenty-one years. I have never been convicted of a felony or other crime. I have personal knowledge of the facts stated herein.
2. "I am the attorney of record for the Applicant, James T. Allen, who has submitted his Motion for Acceptance of Resignation to this Court. I understand that in connection with such Motion, my client must also submit his permanent State Bar Card and License to the Court. Applicant's License has already been provided to the Court. At the present time, Applicant cannot be located and I am unable to contact him for the purposes of either obtaining his permanent State Bar card or his affidavit concerning its whereabouts.
3. "Should I receive Applicant's permanent State Bar card or his affidavit regarding its loss, misplacement or destruction, I will immediately forward same to the Court.

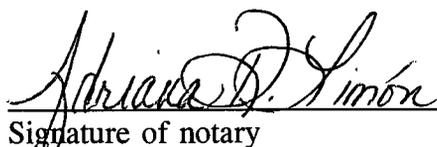
FURTHER, Affiant sayeth not.



Eduardo N. Lerma

Given under my hand and seal of office this the 15th day of
June, 1995.





Signature of notary

ADRIANA D. LIMON

Printed Name of Notary

DECEMBER 1, 1998

My commission expires

**IN THE SUPREME COURT OF TEXAS
MOTION FOR ACCEPTANCE OF RESIGNATION AS
ATTORNEY AND COUNSELOR AT LAW**

OF

James T. Allen

NOW COMES your Applicant, James T. Allen, and hereby resigns as an Attorney and Counselor at Law in the State of Texas; and hereby submits to the Court his resignation as an Attorney and Counselor at Law; and prays that the Court accept said resignation.

I.

Attached hereto is the License and permanent State Bar card issued by this Court to the Applicant, James T. Allen, as an Attorney and Counselor at Law on September 16, 1968. Said License and permanent State Bar card are hereby surrendered by the Applicant.

In the event that Applicant has lost or misplaced his License and/or permanent State Bar card and that at this time they cannot be tendered to the Court, Applicant represents to the Court that should Applicant find his License and permanent State Bar card, Applicant will immediately surrender same to the Court.

II.

In connection with such resignation, Applicant acknowledges the following findings of fact and conclusions of law:

FINDINGS OF FACT: File S3019400657

(1) Applicant is an attorney licensed to practice law in Texas and is a member of the State Bar of Texas.

(2) Ms. Jill Doyle hired Applicant on May 19, 1993 to represent her in a divorce and child custody matter, and paid Applicant \$2,500.00 for his services.

(3) During the period of representation, Applicant did not file any motions in the matter, failed to complete the legal matter entrusted to him, and performed no significant legal services for Ms. Doyle.

(4) Applicant failed to communicate with Ms. Doyle or respond to her numerous written and oral requests for the status of the case. Ms. Doyle was not kept sufficiently informed about the matter to allow her to make informed decisions regarding representation.

(5) Ms. Doyle terminated Applicant's representation on August 20, 1993, and requested the return of any unearned portion of the \$2,500.00 retainer fee. On October 20, 1992, Applicant provided Ms. Doyle with a closing statement of services rendered which contained entries intended to deceive and misrepresent to Ms. Doyle as to the actual work performed. The statement indicated that Ms. Doyle owed an outstanding balance of \$350.00 to Applicant, although

Ms. Doyle's thoroughly documented diary of services revealed that many of Applicant's entries were false.

(6) Applicant was ordered by the Evidentiary Panel of the District 17A Grievance Committee to pay attorney's fees and costs to the State Bar of Texas, 4171 N. Mesa, Bldg. A-104, El Paso, Texas, and to evidence payment of such fees and costs no later than 5:00 p.m. on March 15, 1995. Applicant has not evidenced payment of attorney's fees and costs as ordered.

(7) Applicant was ordered by the Evidentiary Panel of the District 17A Grievance Committee to submit a certified or cashier's check for restitution, payable to the Complainant, Ms. Jill Doyle, to the State Bar of Texas, 4171 N. Mesa, Bldg. A-104, El Paso, Texas, no later than 5:00 p.m. on March 15, 1995. Applicant has not evidence payment of restitution as ordered.

(8) Applicant was ordered by the Evidentiary Panel of the District 17A Grievance Committee to evidence enrollment in the Professional Enhancement Program (PEP) to the State Bar of Texas, 4171 N. Mesa, Bldg. A-104, El Paso, Texas, no later than 5:00 p.m., on March 15, 1995. Applicant has not evidenced enrollment in PEP as ordered.

(9) Applicant acknowledges that by his conduct he has violated Rule 1.01 (b) (1) & (2); Rule 1.03 (a) & (b); and Rule

1.15 (d); of the Texas Disciplinary Rules of Professional Conduct.

(10) Applicant further acknowledges that attorney's fees in the amount of \$1,500.00, and costs in the amount of \$445.00, are due and payable by certified or cashier's check to the State Bar of Texas for the investigation and hearing of this complaint.

(11) Applicant further acknowledges that restitution is due to the Complainant, Jill Doyle, in the amount of \$3,000.00, by certified or cashier's check.

FINDINGS OF FACT: File S3099400812

(1) Applicant is an attorney licensed to practice law in Texas and is a member of the State Bar of Texas

(2) Ms. Brenda Shaklett hired Applicant on March 18, 1994 to represent her in a Motion to Reduce Child Support filed by her ex-husband, and to seek child support arrearage payments due by the ex-husband. Applicant's representation also included protecting Ms. Shaklett's child support rights in the ex-husband's bankruptcy proceedings and to pursue a change of venue from Bexar County, Texas to El Paso County, Texas.

(3) Applicant filed appropriate documents in the 166th Judicial District Court of Bexar County. Thereafter, Applicant neglected the matter by not reducing to an Order, an agreement

between Applicant and opposing counsel to transfer venue to El Paso County. Applicant further neglected the case by not obtaining an order withholding earnings for child support.

(4) Applicant never appeared in bankruptcy court to determine whether child support due his client had been received by the bankruptcy trustee. Although Applicant received evidence from the ex-husband to establish the support arrearage due and owing to Ms. Shaklett, Applicant failed to pursue Ms. Shaklett's case.

(5) Applicant did not keep Ms. Shaklett reasonably informed about the status of the case. Ms. Shaklett contacted Applicant's office by phone and in-person requesting to speak with Applicant in her efforts to gain information concerning the case, but Applicant failed to respond.

(6) Applicant failed to inform Ms. Shaklett that Applicant had executed a document reducing the amount of child support on behalf of his client, after Ms. Shaklett had instructed Applicant not to agree to any reduction. Applicant never adequately advised Ms. Shaklett of the legal effects and consequences of the proposed or completed agreements. Applicant also did not advise Ms. Shaklett of hearing dates and procedures before the court.

(7) Applicant acknowledges that by his conduct he has violated Rule 1.01 (b) (1) & (2); Rule 1.03 (a) & (b); and Rule

1.02 (a); of the Texas Disciplinary Rules of Professional Conduct.

(8) Applicant further acknowledges that restitution is due to the Complainant, Brenda Shaklett, in the amount of \$600.00, payable by certified or cashier's check.

FINDINGS OF FACT: File S3099400823

(1) Applicant is an attorney licensed to practice law in Texas and is a member of the State Bar of Texas.

(2) Linette Toland Weller hired the Applicant on November 8, 1989 to represent her in a post-divorce custody modification and a child support enforcement matter.

(3) Applicant filed appropriate documents in the County Court at Law Number One of El Paso County, Texas. Thereafter, Applicant neglected the matter by not reducing the Court Master's findings to an order; failed to file a wage garnishment order; and failed to file an order affecting the parent-child relationship.

(4) The Court filed Notices of Intent to Dismiss on June 1, 1993, and July 14, 1993, but Applicant failed to respond to the notices and the case was dismissed for want of prosecution on September 17, 1993.

(5) Applicant failed to keep Ms. Weller reasonably informed about the status of the case and did not reply to her requests for

information.

(6) Applicant acknowledges that by his actions he has violated Rule 1.01 (b) (1) & (2); and Rule 1.03 (a) & (b); of the Texas Disciplinary Rules of Professional Conduct.

FILE NO. S3129400898:

(1) Applicant is an attorney licensed to practice law in Texas and is a member of the State Bar of Texas.

(2) Paula Marie Albrecht hired Applicant on May 10, 1993, to represent her in a non-payment of child-support matter, and paid Respondent \$500.00 for his services.

(3) Applicant filed a Petition to Enforce and Modify Foreign Judgment on May 28, 1993. Applicant then filed a Temporary Restraining Order and Order Setting Hearing for Temporary Orders on behalf of Ms. Albrecht on June 2, 1993, and a hearing was set for June 24, 1993. Applicant then advised Ms. Albrecht that he would notify authorities in California of the Texas child support action. Applicant failed to notify authorities in California and, as a result, a warrant was issued for Ms. Albrecht's arrest for interference with child custody.

(4) Applicant neglected Ms. Albrecht's legal matter in California and failed to pursue Temporary Orders in El Paso.

(5) Applicant deceived and misrepresented to Ms. Albrecht that he was actively pursuing the case in California, when he was not; thus directly causing harm to Ms. Albrecht.

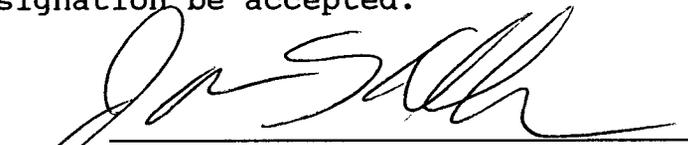
(6) Applicant failed to timely furnish to the District 17-A Grievance Committee a response as required by the Texas Rules of Disciplinary Procedure.

(7) Applicant acknowledges that by his actions, he has violated Rule 1.01 (b) (1) & (2); Rule 8.04 (a) (3); and Rule 8.04 (a) (8), of the Texas Disciplinary Rules of Professional Conduct.

(8) Applicant further acknowledges that attorney's fees and costs in the amount of \$1,000.00 are due and payable by certified or cashier's check to the State Bar of Texas for the investigation and hearing of this complaint.

III.

Your applicant is voluntarily resigning and withdrawing from the practice of law; Applicant does so in lieu of discipline for professional misconduct; and Applicant prays that his name be dropped and deleted from the list of persons licensed to practice law in Texas; and that his resignation be accepted.


James T. Allen
State Bar No. 01041000

APPROVED AS TO FORM AND SUBSTANCE:

Eduardo N. Lerma
Eduardo N. Lerma
ATTORNEY FOR APPLICANT

4/21/95
Date

James T. Allen
James T. Allen
State Bar No. 01041000
APPLICANT

4/21/95
Date

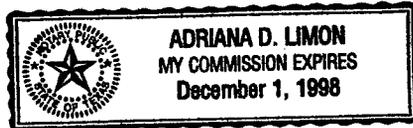
SUBSCRIBED AND SWORN to before me by the said James T. Allen
this the 21st day of April, 1995.

December 1, 1998
My Commission expires

Adriana D. Limon
NOTARY PUBLIC in and for
the State of Texas

ADRIANA D. LIMON
Printed Name of Notary

CF6-17.PRI



**IN THE SUPREME COURT OF THE STATE OF TEXAS
RESPONSE TO MOTION FOR ACCEPTANCE OF RESIGNATION AS
ATTORNEY AND COUNSELOR AT LAW**

OF

JAMES T. ALLEN

TO THE HONORABLE SUPREME COURT OF TEXAS:

Pursuant to Part X of the Texas Rules of Disciplinary Procedure, James M. McCormack, Chief Disciplinary Counsel, hereby files this response on behalf of the State Bar of Texas, acting by and through the Commission for Lawyer Discipline ("Commission"), to the Motion for Acceptance of Resignation in Lieu of Discipline filed by James T. Allen ("Applicant"), and would show as follows:

I.

On April 21, 1995, Applicant James T. Allen voluntarily executed a Motion for acceptance of Resignation as Attorney and Counselor at Law. The Commission hereby concurs in such motion. Acceptance of such resignation in lieu of disciplinary action will protect the public.

II.

In connection with such resignation, the Commission makes the following findings of fact:

FINDINGS OF FACT: File 83019400657

(1) Applicant is an attorney licensed to practice law in Texas and is a member of the State Bar of Texas.

(2) Ms. Jill Doyle hired Applicant on May 19, 1993 to represent her in a divorce and child custody matter, and paid Applicant \$2,500.00 for his services.

(3) During the period of representation, Applicant did not file any motions in the matter, failed to complete the legal matter entrusted to him, and performed no significant legal services for Ms. Doyle.

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check for restitution, payable to the Complainant, Ms. Jill Doyle, to the State Bar of Texas, 4171 N. Mesa, Bldg. A-104, El Paso, Texas, no later than 5:00 p.m. on March 15, 1995. Applicant has not evidenced payment of restitution as ordered.

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husband, and to seek child support arrearage payments due by the ex-husband. Applicant's representation also included protecting Ms. Shaklett's child support rights in the ex-husband's bankruptcy proceedings and to pursue a change of venue from Bexar County, Texas to El Paso County, Texas.

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or completed agreements. Applicant also did not advise Ms. Shaklett of hearing dates and procedures before the court.

(7) Applicant acknowledges that by his conduct he has violated Rule 1.01 (b) (1) & (2); Rule 1.03 (a) & (b); and Rule 1.02 (a); of the Texas Disciplinary Rules of Professional Conduct.

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FILE NO. S3129400898:

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Grievance Committee a response as required by the Texas Rules of Disciplinary Procedure.

(7) Applicant acknowledges that by his actions, he has violated Rule 1.01 (b) (1) & (2); Rule 8.04 (a) (3); and Rule 8.04 (a) (8), of the Texas Disciplinary Rules of Professional Conduct.

(8) Applicant further acknowledges that attorney's fees and costs in the amount of \$1,000.00 are due and payable by certified or cashier's check to the State Bar of Texas for the investigation and hearing of this complaint.

III.

Based on the foregoing findings of fact, the Commission concludes as a matter of law that James T. Allen committed professional misconduct by violating Rule 1.01 (b) (1) & (2); 1.02 (a); Rule 1.03 (a) & (b); Rule 1.15 (d); and Rule 8.04 (a) (3) & (8); of the Texas Disciplinary Rules of Professional Conduct.

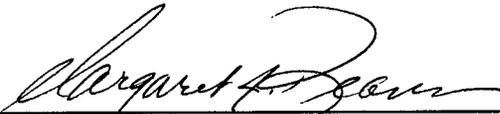
IV.

The Commission prays that the Court accept the resignation as an Attorney and Counselor of Law of James T. Allen and drop his name from the list of persons licensed to practice law in the State of Texas.

Respectfully submitted,

James M. McCormack
General Counsel

Margaret J. Reaves
Regional Counsel
Office of the Chief Disciplinary Counsel
State Bar of Texas
425 Soledad, Suite 300
San Antonio, Texas 78205
(210) 271-7881 / (210) 271-9642 (FAX)



Margaret J. Reaves
State Bar No. 16643800

ATTORNEYS FOR COMMISSION

CERTIFICATE OF SERVICE

This is to certify that the Response of the Chief Disciplinary Counsel to the Resignation of James T. Allen has been served on James T. Allen, by and through his attorney of record, Eduardo N. Lerma, 1417 Montana Avenue, El Paso, Texas 79902, via certified mail, return receipt requested, #Z 354 197 064, on May 3, 1995.



Margaret J. Reaves

CF6-19.PRI