

ORDER OF THE SUPREME COURT OF TEXAS

Misc Docket No. 96- 9128

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

The Supreme Court of Texas hereby appoints the Honorable Bob Parks, Judge of the 143rd District Court of Ward County, Texas, to preside in the Disciplinary Action styled:


The Commission for Lawyer Discipline v. James J. Crook

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

The Clerk of the Supreme Court shall promptly forward to the District Clerk of El Paso 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 13th day of May, 1996.

A handwritten signature in black ink, appearing to read 'J. Adams', with a large, sweeping flourish underneath.

JOHN T. ADAMS, CLERK
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 96-9128, is also an assignment pursuant to Texas Government Code §74.057.

Signed this 15th day of May, 1996.



Raul A. Gonzalez
Justice
(Tex. Gov't Code § 22.014)



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

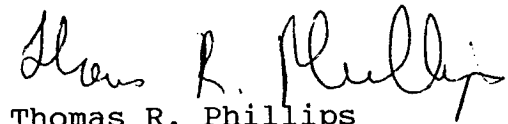
ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

JUSTICES

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

I hereby authorize the Honorable Raul A. Gonzalez, senior Justice of the Supreme Court of Texas, to sign certificates of eligibility of applicants for judicial retirement benefits, assignments of retired and former judges, and any other court documents which may require the signature of the Chief Justice of the Supreme Court, during my absence between May 13 and May 23, 1996, pursuant to Texas Government Code § 22.014.

May 6, 1996


Thomas R. Phillips
Chief Justice

§ 22.014. Senior Justice Acting for Chief Justice

In the chief justice's absence, the justice with the most seniority on the supreme court may sign a court document for the chief justice if the chief justice has given that justice written authorization.

Added by Acts 1995, 74th Leg., ch. 356, § 1, eff. Aug. 28, 1995.

No. _____

COMMISSION FOR LAWYER
DISCIPLINE

§
§
§
§
§
§

IN THE DISTRICT COURT OF

V.

EL PASO COUNTY, T E X A S

JAMES J. CROOK

___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, JAMES J. CROOK, 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, JAMES J. CROOK, State Bar Number 05111000, 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 El Paso County, Texas and may be served with process at 109 N. Oregon Street, Suite 602, El Paso, El Paso County, Texas 79901, his usual place of business.

Venue

Respondent resides in and maintains his principal place of practice in El Paso County, Texas. The alleged professional misconduct occurred in El Paso County, Texas. Accordingly, pursuant to Texas Rules of Disciplinary Procedure 3.03, venue is proper in El Paso 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 July 13, 1995. The acts and conduct of Respondent, as hereinafter alleged, constitute professional misconduct.

II.

On or about July 7, 1994, Katherine Hallyburton retained the legal services of Respondent to represent her and her minor daughter, Tammy Hallyburton, in a claim for personal injury damages as a result of an accident which occurred on June 27, 1994. Tammy Hallyburton was injured in a collision when a vehicle crossed the median, collided with her vehicle and left the scene. A contingent fee agreement was signed on July 7, 1994. Respondent agreed to represent Katherine and Tammy Hallyburton in an attempt to obtain a recovery from all possible sources for the damages suffered by Tammy.

III.

Respondent filed a claim with the negligent driver's insurance company and negotiated a settlement of the claim in the amount of \$18,000.00. Since Tammy Hallyburton was a minor, a friendly suit was initiated by the insurance company and an attorney ad litem was appointed by the Court. The minor's settlement hearing was scheduled for July 27, 1995. On or about July 26, 1995, in response to a question about issues related to a possible underinsured motorist

claim being made on Tammy's insurance policy, Respondent told the attorney ad litem the claim had been made and that Respondent had protected the potential underinsured claim and received written permission from the underinsured carrier to accept the settlement with the negligent driver's carrier. On or about the same date, Respondent told Katherine Hallyburton he had made a claim for underinsured motorist benefits and that the claim had been denied. Respondent failed to put the underinsured carrier on notice until July 27, 1995.

IV.

In addition to misrepresenting facts to the attorney ad litem and to Katherine Hallyburton, Respondent failed to keep his client informed about the status of the case and failed to inform Katherine Hallyburton of facts relating to the underinsured and personal injury protection claims to the extent reasonably necessary to permit his client to make informed decisions regarding the representation.

V.

The conduct of Respondent described above constitutes a violation of the following Texas Disciplinary Rules of Professional Conduct:

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 representation.

Rule 8.04(a)(3) -- A lawyer shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

PRAYER

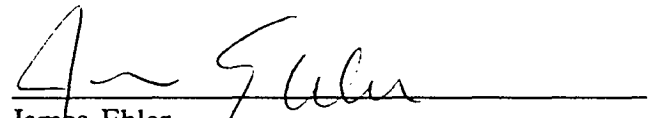
WHEREFORE, PREMISES CONSIDERED, Petitioner prays that a judgment of professional misconduct be entered against Respondent imposing an appropriate sanction as the facts shall warrant and that Petitioner have such other relief to which it is entitled, including costs of court and attorney's fees.

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 372 312 415

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

March 15, 1996

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

RE: Commission for Lawyer Discipline v. James J. Crook; In the District Courts
of El Paso 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 James J. Crook. Mr. Crook has designated El Paso 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:

James J. Crook
One Texas Tower
109 N. Oregon, Suite 602
El Paso, Texas 79901

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 El Paso 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 El Paso County, Texas and a return envelope to be sent to the District Clerk of El Paso 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 cursive script, appearing to read "J. Ehler".

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

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

EXECUTIVE ASST
WILLIAM L. WILLIS

ADMINISTRATIVE ASST
NADINE SCHNEIDER

May 22, 1996

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

Mr. James J. Crook
One Texas Tower
109 N. Oregon, Suite 602
El Paso, Texas 79901

Dear Mr. McCormack and Mr. Crook:

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 Bob Parks, Judge of the 143rd District Court, Monahans, Texas to preside in

Commission for Lawyer Discipline v. James J. Crook

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

CLERK
JOHN T. ADAMS

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

EXECUTIVE ASS'T
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

May 22, 1996

Honorable Bob Parks
Judge, 143rd District Court
P.O. Box 205
Monahans, Texas 79756-0205

Dear Judge Parks:

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. Crook and Mr. McCormack, and a copy of the letter to the District Clerk of El Paso County.

It is recommended that, a month or six weeks after receipt of this letter, you or your coordinator contact the District Court Administrative Office (915-546-2143) 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 (915-546-8135) 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

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

May 22, 1996

The Honorable Edie Rubalcaba
District Clerk of El Paso County
500 East San Antonio Avenue, Room 103
El Paso, Texas 79901-2496

Dear Mr. Rubalcaba:

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 Lawver Discipline v. James J. Crook and a copy of the Supreme Court's order appointing the Honorable Bob Parks, Judge of the 143rd District Court, Monahans, Texas, to preside in this Disciplinary Action.

Sincerely,

SIGNED

John T. Adams
Clerk

cc: Hon. Bob Parks
Mr. James J. Crook
Mr. James M. McCormack