

ORDER OF THE SUPREME COURT OF TEXAS

Misc Docket No. 97- 9214

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

The Supreme Court of Texas hereby appoints the Honorable Jesse A. Holloway, Judge of the 350th District Court of Taylor County, Texas, to preside in the Disciplinary Action styled:

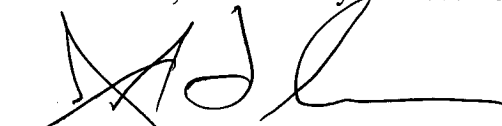
The Commission for Lawyer Discipline v. Ray Gene Smith

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

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

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

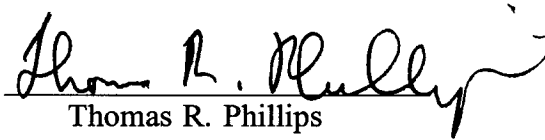
with the Seal thereof affixed at the City
of Austin, this 2nd day of December, 1997.



JOHN T. ADAMS, CLERK
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 97-9214, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code §74.057.

Signed this 3 day of December, 1997.

A handwritten signature in black ink, appearing to read "Thomas R. Phillips", with a stylized flourish at the end.

Thomas R. Phillips
Chief Justice

NO. _____

COMMISSION FOR LAWYER DISCIPLINE § IN THE DISTRICT COURT OF
 §
V. § WICHITA COUNTY, TEXAS
 §
RAY GENE SMITH § ____ JUDICIAL DISTRICT

DISCIPLINARY PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Petitioner, the Commission for Lawyer Discipline, a committee of the State Bar of Texas (hereinafter called "Petitioner"), complaining of Respondent, Ray Gene Smith (hereinafter called "Respondent"), showing the Court:

I.

Petitioner brings this disciplinary action pursuant to the State Bar Act, Tex. Gov't. Code Ann. § 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 the Disciplinary Petition was filed on or after May 1, 1992.

II.

Respondent is an attorney licensed to practice law in Texas and a member of the State Bar of Texas. Respondent is a resident of, and has his principal place of practice in, Wichita County, Texas. An officer may serve citation on Respondent at 13173 Blaker Road, Iowa Park, Wichita County, Texas 76367.

FIRST CAUSE OF ACTION

III.

Respondent was retained by Robert Quiles (hereinafter referred to as "Complainant") on February 15, 1996, to represent him in a criminal matter in Oklahoma. Complainant paid Respondent \$7,500.00. Since Respondent is not licensed to practice in Oklahoma, Respondent

obtained local counsel to assist in this matter. Local counsel was paid \$2,500.00 for his services. Respondent failed to notify either Complainant or local counsel of his inability to appear at a hearing scheduled for October 1, 1996. Due to Respondent's failure to appear, the judge removed him from the case and appointed the local counsel as Complainant's attorney. Upon termination of representation, Respondent failed to refund the unearned fees to the Complainant.

In addition to Complainant's criminal case, there was a civil lawsuit filed against him for forfeiture of assets. Respondent, through local counsel, filed an answer to that lawsuit. At the time the answer was filed, there was no written fee agreement between Complainant and Respondent, nor was there any understanding regarding the fee Respondent would charge for his representation of the civil case.

IV.

Such acts and/or omissions on the part of Respondent as are described in Paragraph III hereinabove which occurred on or after January 1, 1990, constitute conduct violative of Rules 1.03(b), 1.04(c), and 1.15(d) of the Texas Rules of Professional Conduct.

V.

The complaint which forms the basis of the cause of action hereinabove set forth was brought to the attention of the Office of the General Counsel of the State Bar of Texas by a complaint filed by Randy Quiles on or about October 8, 1996.

SECOND CAUSE OF ACTION

VI.

Respondent knowingly failed to respond to a lawful demand for information from the District 14A Grievance Committee. Respondent was requested, verbally and in writing, to provide specific information and to respond no later than February 5, 1997. The information was never received.

Furthermore, Respondent asserted to the State Bar of Texas District 14A Grievance Committee, under oath and in writing, that he never neglected a client's file. Respondent's prior history of discipline disclosed that he was suspended from the practice of law on more than one occasion for neglecting a client's file.

VII.

Such acts and/or omissions on the part of Respondent as are described in Paragraph VI hereinabove which occurred on or after January 1, 1990, constitute conduct violative of Rule 8.01(a) and (b) of the Texas Rules of Professional Conduct.

PRAYER


WHEREFORE, PREMISES CONSIDERED, Petitioner prays for judgment that Respondent be disciplined as the facts shall warrant; and that Petitioner have such other relief to which entitled, including costs of Court and attorney's fees.

Respectfully submitted,

Steven W. Young
General Counsel

Denise C. Stooksberry
Assistant General Counsel

Office of the General Counsel
STATE BAR OF TEXAS
201 Main Street, Suite 1150
Fort Worth, TX 76102
817/877-4993
817/335-4249 (FAX)



Denise C. Stooksberry
State Bar Card No. 04607100

ATTORNEYS FOR PETITIONER

STATE BAR OF TEXAS



Office of the Chief Disciplinary Counsel

October 15, 1997

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

Re: Commission for Lawyer Discipline v. Ray Gene Smith

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 Ray Gene Smith. Mr. Smith is a resident of Wichita County, Texas. Request is hereby made that the Court appoint an active District Judge who does not reside in the Administrative Judicial Region in which Respondent resides to preside in this case. Upon appointment, request is hereby made that you notify the Respondent at the address shown below and the undersigned of the identity and address of the judge assigned:

Ray Gene Smith
13173 Blaker Road
Iowa Park, Texas 76367

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

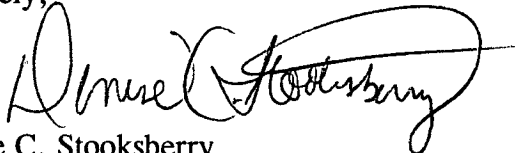
Once a trial judge has been appointed, please forward the original and two (2) copies of the Disciplinary Petition, the filing fee check, also enclosed herewith, and the Court's appointing order to the District Clerk of Wichita County, Texas, with the request that the suit be filed, service be obtained,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

John T. Adams, Clerk
October 15, 1997
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Also enclosed is a pre-addressed envelope for your use in transmitting the petition, etc., to the District Clerk of Wichita County, Texas, and a return envelope to be sent to the District Clerk of Wichita County, Texas, for the Clerk's use in returning a file-marked copy of the petition to the undersigned.

If you have any questions, please contact me. Thank you for your assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Denise C. Stooksberry". The signature is fluid and cursive, with a large loop at the end.

Denise C. Stooksberry
Assistant General Counsel
Office of the Chief Disciplinary Counsel
State Bar of Texas

DCS/am

Enclosures