

ORDER OF THE SUPREME COURT OF TEXAS

Misc Docket No. 98- 9201

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

The Supreme Court of Texas hereby appoints the Honorable Nanette Hasette, Judge of the 28th District Court of Nueces County, Texas, to preside in the Disciplinary Action styled:

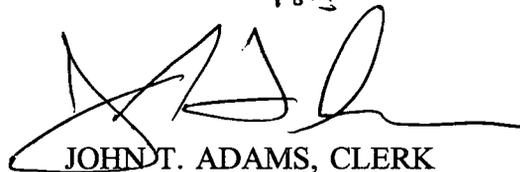
The Commission for Lawyer Discipline v. Rahman O. "Ray" Ashiru

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

The Clerk of the Supreme Court shall promptly forward to the District Clerk of Harris 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. This assignment is distinct from that made by Misc. Doc. No. 98-9158.

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

with the Seal thereof affixed at the City
of Austin, this 17th day of November, 1998.

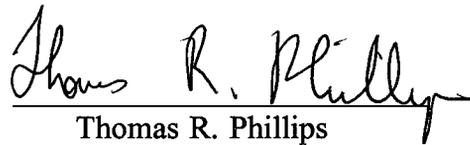


JOHN T. ADAMS, CLERK

SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 98-9201, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code §74.057.

Signed this 18 day of November, 1998.

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

Thomas R. Phillips
Chief Justice

CAUSE NO.

COMMISSION FOR LAWYER DISCIPLINE § IN THE DISTRICT COURT OF
v. § HARRIS COUNTY, TEXAS
RAHMAN O. "RAY" ASHIRU § _____ th 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, complaining of Respondent, Rahman O. "Ray" Ashiru, showing the following to 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 with the State Bar of Texas on or after February 12, 1997.

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 Harris County, Texas. An officer may serve citation on Respondent at 6666 Harwin Drive, Suite 301, Houston, Texas 77036-2231.

III.

ARDOIN COMPLAINT

Veronica Ardoin hired the Respondent on September 13, 1995 to represent her husband in a criminal appeal. She paid Respondent One Thousand Seven Hundred Fifty Dollars (\$1,750.00) for the representation. Respondent did not perform any meaningful work for his client after September 13, 1995. Respondent did not make an appearance in the case, and he never entered the case as an attorney of record. Ms. Ardoin's husband was represented by a court-appointed attorney at trial. That attorney, Denise M. Crawford, handled the appeal when the Respondent did not make an appearance in the case. She filed a brief with the Court of Appeals on behalf of Mr. Ardoin in January 1996.

IV.

By failing to file an appellate brief on behalf of his client, Respondent engaged in conduct in violation of Rule **1.01(b)(1)**[neglecting a legal matter entrusted to him] of the Texas Disciplinary Rules of Professional Conduct. By failing to notify his client that he did not file an appeal, Respondent engaged in conduct in violation of 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]; and **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] of the Texas Disciplinary Rules of Professional Conduct.

By failing to return any unearned portion of the retainer paid to him by his client upon termination of his representation, Respondent engaged in conduct in violation of

Rule 1.15(d)[failing, upon termination of representation, to reasonably protect a client's interests, give notice to the client to seek other counsel, or surrender papers and property which belongs to the client] of the Texas Disciplinary Rules of Professional Conduct.

By his conduct as described in Paragraph III, Respondent has violated Rule 1.06(Q) of the Texas Rules of Disciplinary Procedure.

V.

CLAYTON COMPLAINT

Respondent, Rahman "Ray" Ashiru handled personal injury claims with Fireman's Fund Insurance Company for three individuals named Lloyd Raggs, Shawnee Wright, and Sylvester Raggs. Respondent settled the claims with Fireman's Fund Insurance Company, and signed the checks for the named individuals. Lloyd Raggs, Sylvester Raggs and Shawnee Wright advised Fireman's Fund Insurance Company that they never saw any part of the settlement Respondent received on their behalf. Respondent never provided releases of claims on behalf of Lloyd Raggs, Sylvester Raggs and/or Shawnee Wright to Fireman's Fund Insurance Company.

Respondent claims he paid his clients upon receipt of the settlement money. The settlement for Lloyd Raggs' claim was Nine Thousand Dollars (\$9,000.00). After payment of attorneys' fees and fees to the medical providers, Lloyd Raggs would receive Three Thousand Dollars (\$3,000.00). The settlement for Sylvester Raggs was Eight Thousand Dollars. After payment of attorneys' fees and fees to the medical providers, Sylvester Raggs was to receive Two Thousand Six Hundred Sixty-seven

Dollars (\$2,667.00). The settlement for Shawnee Wright was Nine Thousand Dollars (\$9,000.00). After payment of attorneys' fees and fees to the medical providers, Shawnee Wright was to receive Three Thousand Dollars (\$3,000.00). The total payout to his clients was Eight Thousand Six Hundred Sixty-seven Dollars (\$8,667.00).

Respondent issued check number 1062 dated May 17, 1996 from his attorney trust account in the amount of Eleven Thousand Seven Hundred Dollars (\$11,700.00) payable to Charles Shyngle. Charles Shyngle was directed to pay the clients their individual portions of the settlement from the \$11,700.00. The difference of Three Thousand and three Dollars (\$3,003.00) went to Mr. Shyngle. Mr Shyngle did not represent Sylvester Raggs, Lloyd Raggs or Shawnee Wright, and did not earn a right to the \$3,003.00.

Respondent instructed Charles Shyngle to travel to Chicago, Illinois to pay the clients, Sylvester Raggs, Lloyd Raggs, and Shawnee Wright, their individual portions of the settlement. Respondent instructed Charles Shyngle to pay the clients in cash and to obtain Releases of Claims from the clients upon receipt of the money. Although Respondent has produced copies of Releases of Claims purportedly signed by his clients, the clients state they did not receive the settlement money from him.

VI.

By releasing funds from his attorney trust account to a person other than a client or a third person who had an interest in the funds, Respondent engaged in conduct in violation of Rules **1.14(a)**[a lawyer shall hold funds belonging in whole or in part to a client or third person separate from his own property in a trust or escrow account];

1.14(b)[upon receiving funds belonging in whole or in part to a client or a third person, the lawyer shall promptly notify the client or third person and shall promptly deliver the funds to the client or the third person]; and **1.14(c)**[when a lawyer has possession of funds in which the lawyer and another person claim interest, the property shall be kept separate by the lawyer until there is an accounting and severance of the interest] of the Texas Disciplinary Rules of Professional Conduct.

By his conduct as alleged in Paragraph V above, Respondent has committed professional misconduct as defined by Section 1.06(Q) of the Texas Rules of Disciplinary Procedure.

PRAYER

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

Respectfully submitted,

Steven W. Young
General Counsel

Mary F. Klapperich
Assistant General Counsel

Office of the General Counsel
State Bar of Texas
1111 Fannin, Suite 1370
Houston, Texas 77002
(713) 759-6932
(713) 752-2158 FAX

Mary F. Klapperich

MARY F. KLAPPERICH

State Bar No. 11550700

ATTORNEYS FOR PETITIONER

STATE BAR OF TEXAS



Office of the General Counsel

October 29, 1998

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

Re: Commission for Lawyer Discipline v. Rahman O. "Ray" Ashiru

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 Rahman O. "Ray" Ashiru. Mr. Ashiru has designated Harris County, Texas, 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 resides 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:

Rahman O. "Ray" Ashiru
Attorney-at-Law
6666 Harwin Drive, Suite 301
Houston, Texas 77036-2231

As a practical matter, I would respectfully suggest that you inquire with the Judge to be appointed as to: (1) whether he or she will be able to comply with the 180 day deadline by which the case must be set for trial set forth in Section 3.07 of the Texas Rules of Disciplinary Procedure and (2) whether he or she can accommodate compliance with Mellon Service Co., et al v. Touche Ross Co., 946 S.W.2d 862 (Tex. App. - Houston [14th Dist.] 1997), which requires that all proceedings incident to a case occur in the county of proper venue. 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 Harris 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.

Mr. John Adams
Supreme Court of Texas
October 29, 1998
Page Two

Also enclosed are two (2) pre-addressed envelopes for your use in transmitting the Disciplinary Petition, etc., to the District Clerk of Harris County, Texas, and a return envelope to be sent to the District Clerk of Harris County, Texas for the Clerk's use in returning a file-marked copy of the Disciplinary Petition to the undersigned.

Thank you for your courtesies in this matter.

Sincerely,



Mary F. Klapperich
Assistant General Counsel

MFK/rr
Enclosures



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
CRAIG T. ENOCH
ROSE SPECTOR
PRISCILLA R. OWEN
JAMES A. BAKER
GREG ABBOTT
DEBORAH G. HANKINSON

EXECUTIVE ASST
WILLIAM L. WILLIS

ADMINISTRATIVE ASST
NADINE SCHNEIDER

NOV 23 1998

The Honorable Charles Bacarisse
District Clerk of Harris County
P.O. Box 4651
Houston, Texas 77002

Dear Mr. Bacarisse:

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. Rahman O. "Ray" Ashiru*, and a copy of the Supreme Court's order appointing the Honorable Nanette Hasette, Judge of the 28th District Court of Corpus Christi, Texas, to preside in this Disciplinary Action.

Sincerely,

SIGNED

John T. Adams
Clerk

cc: Honorable Nanette Hasette
Ms. Mary F. Klapperich
Mr. Rahman O. "Ray" Ashiru
Ms. Melissa Dartez



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

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CLERK
JOHN T. ADAMS

EXECUTIVE ASS'T
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

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ROSE SPECTOR
PRISCILLA R. OWEN
JAMES A. BAKER
GREG ABBOTT
DEBORAH G. HANKINSON

NOV 23 1998

Honorable Nanette Hasette
Judge, 28th District Court
901 Leopard Street
Corpus Christi, Texas 78401

Dear Judge Hasette:

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. Ashiru and Ms. Klapperich, and a copy of the letter to the District Clerk of Harris County.

It is recommended that, six to eight weeks after receipt of this letter, you contact the Harris County District Court Administrative Office (713-755-7593) to find out the district court to which this disciplinary case has been assigned. We then recommend that, either before or immediately after you set the case for trial, you again contact the Harris County District Court Administrative Office (713-755-6593) to reserve a courtroom, provide for a court reporter, etc. Finally, you should contact the Presiding Judge of the Administrative Judicial Region into which you have been assigned (713-471-3911) to obtain information on lodging, allowable expenses, and 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

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FAX: (512) 463-1365

JUSTICES
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CLERK
JOHN T. ADAMS

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NADINE SCHNEIDER

NOV 23 1998

Ms. Mary F. Klapperich
Assistant General Counsel, State Bar of Texas
1111 Fannin, Suite 1370
Houston, Texas 77002

Mr. Rahman O. "Ray" Ashiru
Attorney at Law
6666 Harwin Drive, Suite 301
Houston, Texas 77036-2231

Dear Ms. Klapperich and Mr. Ashiru:

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 Nanette Hasette, Judge of the 28th District Court of Corpus Christi, Texas to preside in

Commission for Lawyer Discipline v. Rahman O. "Ray" Ashiru

Sincerely,

SIGNED

John T. Adams
Clerk