

ORDER OF THE SUPREME COURT OF TEXAS

Misc. Docket No. 02 - 1069

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

The Supreme Court of Texas hereby appoints the Honorable Rae Leifeste, Judge of the
340th District Court of Tom Green County, Texas, to preside in the Disciplinary Action styled

The Commission for Lawyer Discipline v. Patrick E. Clarke

filed in the 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 the Disciplinary Petition and this Order 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 27^A day of March, 2002.


JOHN T. ADAMS, CLERK
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 02-9069 is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code §74.057.

Signed this 27 day of March, 2002.


Thomas R. Phillips
Chief Justice



The Supreme Court of Texas

CHIEF JUSTICE
THOMAS R. PHILLIPS

201 West 14th Street Post Office Box 12248 Austin TX 78711
Telephone: 512/463-1312 Facsimile: 512/463-1365

CLERK
JOHN T. ADAMS

JUSTICES
NATHAN L. HECHT
CRAIG T. ENOCH
PRISCILLA R. OWEN
JAMES A. BAKER
DEBORAH G. HANKINSON
HARRIET O'NEILL
WALLACE B. JEFFERSON
XAVIER RODRIGUEZ

APR 19 2002

EXECUTIVE ASSISTANT
WILLIAM L. WILLIS

DEPUTY EXECUTIVE ASST
JIM HUTCHESON

ADMINISTRATIVE ASSISTANT
NADINE SCHNEIDER

The Honorable Reagan Greer
District Clerk of Bexar County
100 Dolorosa Street
San Antonio, Texas 78205-1205

Dear Mr. Greer:

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. Patrick E. Clarke*, and a copy of the Supreme Court's order appointing the Honorable Rae Leifeste, Judge of the 340th District Court, San Angelo, Texas, to preside in this Disciplinary Action.

Sincerely,

SIGNED

John T. Adams
Clerk

cc: Honorable Rae Leifeste
Mr. Paul H. Homburg, III
Mr. Patrick E. Clarke



The Supreme Court of Texas

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THOMAS R. PHILLIPS

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EXECUTIVE ASSISTANT
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ADMINISTRATIVE ASSISTANT
NADINE SCHNEIDER

Honorable Rae Leifeste
Judge, 340th District Court
112 W. Beauregard Avenue
San Angelo, Texas 76903-5850

Dear Judge Leifeste:

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. Clarke and Mr. Homburg, 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 (956-335-2300) 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

201 West 14th Street Post Office Box 12248 Austin TX 78711
Telephone: 512/463-1312 Facsimile: 512/463-1365

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DEPUTY EXECUTIVE ASST
JIM HUTCHESON

ADMINISTRATIVE ASSISTANT
NADINE SCHNEIDER

Mr. Paul H. Homburg, III
Assistant Disciplinary Counsel, State Bar of Texas
425 Soledad, Suite 300
San Antonio, Texas 78205

Mr. Patrick E. Clarke
4047 Big Meadows
San Antonio, Texas 78230

Dear Mr. Homburg and Mr. Clarke:

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 Rae Leifeste, Judge of the 340th District Court, San Angelo, Texas to preside in

Commission for Lawyer Discipline v. Patrick E. Clarke

Sincerely,

SIGNED

John T. Adams
Clerk

CAUSE NO. _____

**COMMISSION FOR
LAWYER DISCIPLINE,
Petitioner**

vs

**PATRICK E. CLARKE
Respondent**

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§
§
§
§
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§

IN THE DISTRICT COURT

_____ **JUDICIAL DISTRICT**

BEXAR COUNTY, TEXAS

ORIGINAL DISCIPLINARY PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES the Commission for Lawyer Discipline, Petitioner, and would respectfully show the following:

I.

DISCOVERY CONTROL PLAN

Discovery proceedings in this cause should be conducted on Level 2 pursuant to Tex.R.Civ.P. Rule 190.3.

II.

PARTIES

Petitioner is the Commission for Lawyer Discipline, a committee of the State Bar of Texas. Respondent, Patrick E. Clarke, State Bar No. 04317000, is an attorney whose license to practice law in the State of Texas is currently suspended, and he is a member of the State Bar of Texas. Respondent may be served with process at his residence at 4047 Big Meadows, San Antonio, Bexar County, Texas, 78230.

III.

JURISDICTION, VENUE AND CONDITIONS PRECEDENT

The cause of action and the relief sought in this case are within the jurisdictional requirements of this Honorable Court. Venue of this case is proper in Bexar County, Texas pursuant to Texas Rules of Disciplinary Procedure Rule 3.03, because Bexar County is the county of the Respondent's residence. All conditions precedent to proceeding with this cause have been performed or fulfilled.

IV.

PROFESSIONAL MISCONDUCT

Petitioner brings this disciplinary action pursuant to the State Bar Act, Tex.Gov't.Code §81.001 *et seq.*, the Disciplinary Rules of Professional Conduct ("DRPC") and the Texas Rules of Disciplinary Procedure ("TRDP"). The complaints which form the basis of this action were filed by Nate Reyna Jr. and Catalina B. Hayes. The acts and omissions of Respondent, as hereinafter alleged, constitute professional misconduct.

V.

FACTUAL BACKGROUND

HAYES COMPLAINT

Complainant Hayes hired Respondent Clarke in September 1998 to probate her husband's will. Clarke failed to file the application for probate until June 1999 and

failed to follow through with any hearing on the application. Clarke failed to return telephone calls and failed to explain the true status of the case. Clarke misrepresented to Complainant Hayes that the application had been set for hearing on several occasions.

VI.

While the probate matter was pending without any resolution, Clarke failed to notify his client that he had been suspended from the practice of law. He failed to withdraw from the representation as required by the Disciplinary Judgment against him. When Clarke was informed of the Hayes complaint against him by the State Bar of Texas, Clarke knowingly failed to timely respond to the complaint and request for information.

VII.

REYNA COMPLAINT

Complainant Reyna hired Clarke in July of 1998 regarding the status of title to real estate and an attempt to have clear title placed in his father's name. Clarke neglected the matter and failed to perform any meaningful work on behalf of Reyna, resulting in Reyna's case being dismissed. Clark misrepresented to Reyna on several occasions that court hearings were being held, when in fact no hearings were being held. Clarke failed to respond to requests for information from his client and failed to disclose the true status of the case to his client. In 1999, Clarke prepared a false

judgment and presented it to Complainant Reyna for signature. The representation such judgment was a possibility at that point was fraudulent.

VIII.

DISCIPLINARY RULES OF PROFESSIONAL CONDUCT

HAYES COMPLAINT

Rule 1.01(b)(1) -- In representing a client, a lawyer shall not neglect a legal matter entrusted to the lawyer;

Rule 1.01(b)(2) -- In representing a client, a lawyer shall not frequently fail to carry out completely the obligations that the lawyer owes to a client or clients.

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 1.15(a)(1) A lawyer shall decline to represent a client or, where representation has commenced, shall withdraw . . . from the representation of a client, if the representation will result in violation of Rule 3.08, other applicable rules of professional conduct or other law.

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

Rule 8.04(a)(8) -- A lawyer shall not fail to timely furnish to the Chief Disciplinary Counsel's office or a district grievance committee a response or other information as required by the Texas Rules of Disciplinary Procedure, unless he or she in good faith timely asserts a privilege or other legal ground for failure to do so.

Rule 8.04(a)(10) -- A lawyer shall not fail to comply with section 13.01 of the Texas Rules of Disciplinary Procedure relating to notification of an attorneys cessation of practice.

REYNA COMPLAINT

Rule 1.01(b)(1) -- In representing a client, a lawyer shall not neglect a legal matter entrusted to the lawyer;

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.

IX.

RELIEF SOUGHT

Petitioner would show that this Honorable Court should enter a judgment of professional misconduct and impose a sanction against Respondent which is in the Court's discretion appropriate under the facts established. Additionally, Respondent should be ordered to pay restitution, attorney fees and all costs associated with this litigation.

PRAAYER

WHEREFORE, PREMISES CONSIDERED, Petitioner prays that a judgment of professional misconduct be entered against Respondent and that this Honorable Court impose an appropriate sanction against Respondent as the facts proved shall warrant. Petitioner further prays to recover costs of court and all expenses associated with these proceedings, including attorney fees as provided in TRDP Rule

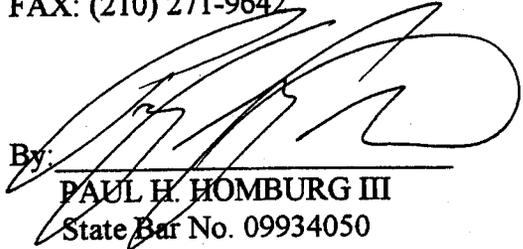
1.06(T)(8)(b). Petitioner further prays for such other and additional relief, general or specific, at law or in equity, to which it may show itself entitled.

Respectfully submitted,

DAWN MILLER,
Chief Disciplinary Counsel

PAUL H. HOMBURG III,
Disciplinary Counsel

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

By: 

PAUL H. HOMBURG III
State Bar No. 09934050

ATTORNEYS FOR PETITIONER

STATE BAR OF TEXAS



CERTIFIED MAIL
RETURN RECEIPT REQUESTED
7099 3220 0000 0580 7341

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

January 31, 2002

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

RE: Commission for Lawyer Discipline v. Patrick E. Clarke

Dear Mr. Adams:

Enclosed please find an original and three (3) copies of a Disciplinary Petition being filed by the Commission for Lawyer Discipline against Patrick E. Clarke. Mr. Clarke 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 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:

Patrick E. Clarke
4047 Big Meadows
San Antonio, Texas 78230

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 three (3) copies of the Disciplinary Petition, 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 "Paul H. Homburg, III". The signature is fluid and cursive, with a large, sweeping flourish at the end.

Paul H. Homburg, III
Assistant Disciplinary Counsel

Enclosures

PHH/apr