

ORDER OF THE SUPREME COURT OF TEXAS

Misc. Docket No. 01-9159

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

The Supreme Court of Texas hereby appoints the Honorable Mary Murphy, Judge of the 14th District Court of Dallas County, Texas, to preside in the Disciplinary Action styled


The Commission for Lawyer Discipline v. Arnulfo Ortiz

to befiled in a 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 and service pursuant to Rule 3.03, Texas Rules of Disciplinary Procedure.

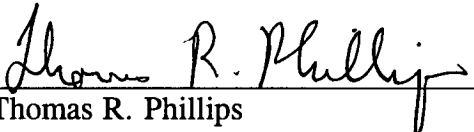
As ordered by the Supreme Court of Texas, in chambers,

With the Seal thereof affixed at the City
Of Austin, this 7th day of September, 2001.


**JOHN T. ADAMS, CLERK
SUPREME COURT OF TEXAS**

This assignment, made by Misc. Docket No. 01-9159, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code §74.057.

Signed this 1 day of September, 2001.



Thomas R. Phillips
Chief Justice

No. _____

COMMISSION FOR LAWYER)	IN THE DISTRICT COURT OF
DISCIPLINE)	
)	
V.)	BEXAR COUNTY, T E X A S
)	
ARNULFO ORTIZ)	___TH JUDICIAL DISTRICT

ORIGINAL 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, ARNULFO ORTIZ, and in support there of would respectfully show the Court the following:

Parties

Petitioner is the COMMISSION FOR LAWYER DISCIPLINE, a committee of the State Bar of Texas. Respondent, ARNULFO ORTIZ, State Bar Number 15323090, was, at the time the following alleged acts of professional misconduct occurred, an attorney licensed to practice law in the State of Texas and a member of the State Bar of Texas. Respondent may be served with process at 814 W. Hildebrand, San Antonio, Bexar County, Texas 78212, his usual place of business.

Venue

At the time the alleged professional misconduct occurred, Respondent maintained a law office in San Antonio, Bexar County, Texas. The alleged acts of professional misconduct occurred in whole or in part in Bexar County, Texas. Accordingly, pursuant to Texas Rules of Disciplinary Procedure 3.03, venue is proper in Bexar County, Texas.

Discovery Level Designation

I.

Pursuant to Tex.R.Civ.P. 190.1, Petitioner designates that discovery in this action should proceed pursuant to Level 2 (Tex.R.Civ.P. 190.3).

Professional Misconduct

II.

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 September 29, 2000 by Eric B. Robles. The acts and conduct of Respondent, as hereinafter alleged, constitute professional misconduct.

III.

On or about March 1, 2000, Complainant, Eric B. Robles, retained Jamie Cavazos from the law firm of Cavazos & Ortiz for representation in his criminal matter. After the Complainant hired Jamie Cavazos, the law firm of Cavazos & Ortiz dissolved.

IV.

During a hearing on August 11, 2000, in which Mr. Cavazos provided substitute counsel to appear on Complainant's behalf, Respondent misrepresented to substitute counsel, Roger Vargas, that Complainant no longer desired Jamie Cavazos as his counsel and had hired Respondent to represent him.

V.

After informing Roger Vargas that Complainant had fired Jamie Cavazos, Respondent returned to Complainant and informed him that Jamie Cavazos had left the firm to practice law elsewhere. Respondent informed Complainant that because his case had begun with the law firm of Cavazos & Ortiz, Jamie Cavazos had left the case to be completed by Respondent. By misrepresenting the true status of Jamie Cavazos' representation of Complainant, Respondent failed to fully explain the true status of representation to the extent reasonably necessary to permit Complainant to make informed decisions regarding the representation by Respondent.

VI.

In filing his *Motion for Substitution of Counsel* at the August 11, 2000 hearing, Respondent failed to disclose to the court that Jamie Cavazos had not withdrawn from the representation and, in fact, had sent substitute counsel in Mr. Cavazos absence. Further, Respondent misrepresented to Complainant that Mr. Cavazos had abandoned his representation.

VII.

Respondent used the August 11, 2000 hearing to gain and continue the representation of Complainant by engaging in conduct involving the fraudulent representing to the court of Mr. Cavazos' position and misleading Complainant into believing Mr. Cavazos had abandoned Complainant even though Attorney Roger Vargas had appeared for Mr. Cavazos on Complainant's behalf.

VII.

The conduct of Respondent described above constitutes violations of the following

Disciplinary Rules:

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 3.03(a)(1) -- A lawyer shall not knowingly make a false statement of material fact or law to a tribunal.

Rule 4.01(a) -- In the course of representing a client a lawyer shall not knowingly make a false statement of material fact or law to a third person.

Rule 7.03(a)(1) -- A lawyer shall not by in-person or telephone contact seek professional employment concerning a matter arising out of a particular occurrence or event, or series of occurrences or events, from a prospective client or nonclient who has not sought the lawyer's advice regarding employment or with whom the lawyer has no family or past or present attorney-client relationship when a significant motive for the lawyer's doing so is the lawyer's pecuniary gain. In those situations where in-person or telephone contact is permitted by this paragraph, a lawyer shall not have contact with a prospective client if the communication involves coercion, duress, fraud, overreaching, intimidation, undue influence or harassment.

Rule 7.03(a)(2) -- A lawyer shall not by in-person or telephone contact seek professional employment concerning a matter arising out of a particular occurrence or event, or series of occurrences or events, from a prospective client or nonclient who has not sought the lawyer's advice regarding employment or with whom the lawyer has no family or past or present attorney-client relationship when a significant motive for the lawyer's doing so is the lawyer's pecuniary gain. In those situations where in-person or telephone contact is permitted by this paragraph, a lawyer shall not have contact with a prospective client if the communication contains information prohibited by Rule 7.02(a).

Rule 7.06 -- A lawyer shall not accept or continue employment when the lawyer knows or reasonably should know that the person who seeks the lawyer's services does so as a result of conduct prohibited by these rules.

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

PRAYER

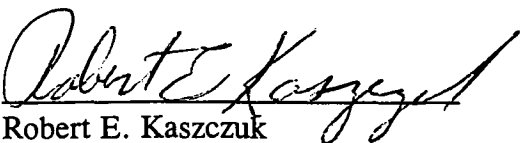
WHEREFORE, PREMISES CONSIDERED, Petitioner prays that a judgment of professional misconduct be entered against Respondent imposing an appropriate sanction as the

facts shall warrant and that Petitioner have such other relief to which it is entitled, including costs of court, litigation expenses and attorney's fees.

Respectfully submitted,

Dawn Miller
Chief Disciplinary Counsel

Robert E. Kaszczuk
Assistant Disciplinary Counsel
Office of the Chief Disciplinary Counsel
State Bar of Texas
425 Soledad, Suite 300
San Antonio, Texas 78205
Telephone: (210) 271-7881
Telecopier: (210) 271-9642



Robert E. Kaszczuk
State Bar No. 11106300

ATTORNEYS FOR PETITIONER

STATE BAR OF TEXAS



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

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
#7000 1670 0005 9695 8807

July 17, 2001

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

RE: Commission for Lawyer Discipline v. Arnulfo Ortiz

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 Arnulfo Ortiz. Mr. Ortiz 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:

Arnulfo Ortiz
814 W. Hildebrand
San Antonio, Texas 78212

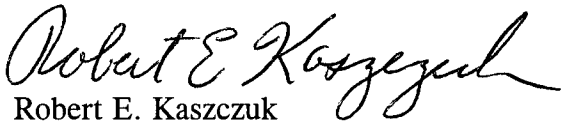
As a practical matter, I would respectfully suggest that you inquire with the judge to be appointed as to whether he or she will be able to comply with the 180 day deadline by which the case must be set for trial as set forth in Section 3.07 of the Texas Rules of Disciplinary Procedure. If not, I would 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 cursive script that reads "Robert E. Kaszczuk". The signature is fluid and extends across the width of the text area.

Robert E. Kaszczuk
Assistant Disciplinary Counsel

Enclosures

REK/apr



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

EXECUTIVE ASSISTANT
WILLIAM L. WILLIS

DEPUTY EXECUTIVE ASST
JIM HUTCHESON

ADMINISTRATIVE ASSISTANT
NADINE SCHNEIDER

JUL 12 2001

Mr. Robert E. Kaszczuk
Assistant General Counsel, State Bar of Texas
425 Soledad, Suite 300
San Antonio, Texas 78205

Mr. Arnulfo Ortiz
814 W. Hildebrand
San Antonio, Texas 78212

Dear Mr. Kaszczuk and Mr. Ortiz:

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 Mary Murphy, Judge of the 14th District Court, Dallas, Texas to preside in

Commission for Lawyer Discipline v. Arnulfo Ortiz

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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EXECUTIVE ASSISTANT
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DEPUTY EXECUTIVE ASST
JIM HUTCHESON

ADMINISTRATIVE ASSISTANT
NADINE SCHNEIDER

SEP 12 2001

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. Arnulfo Ortiz*, and a copy of the Supreme Court's order appointing the Honorable Mary Murphy, Judge of the 14th District Court, Dallas, Texas, to preside in this Disciplinary Action.

Sincerely,

SIGNED

John T. Adams
Clerk

cc: Honorable Mary Murphy
Mr. Robert E. Kaszczuk
Mr. Arnulfo Ortiz



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
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EXECUTIVE ASSISTANT
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JIM HUTCHESON

ADMINISTRATIVE ASSISTANT
NADINE SCHNEIDER

SEP 12 2001

Honorable Mary Murphy
Judge, 14th District Court
600 Commerce Street, 3rd Floor
Dallas, Texas 75202

Dear Judge Murphy:

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. Ortiz and Mr. Kaszczuk, 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 (210-335-2300) 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