

**IN THE SUPREME COURT OF TEXAS**

Misc. Docket No. 94-9052

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**ORDER REVOKING TEMPORARY LICENSE**

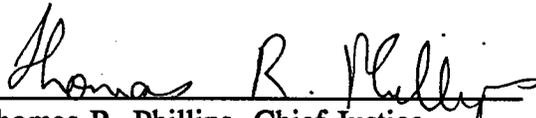
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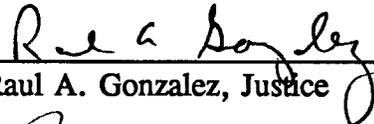
**ORDERED:**

The temporary license issued to James M. Carlson on November 15, 1991, is hereby revoked, pursuant to the recommendation of the Board of Law Examiners of the State of Texas.

This order shall be effective immediately.

SIGNED AND ENTERED this 9<sup>th</sup> day of March, 1994.

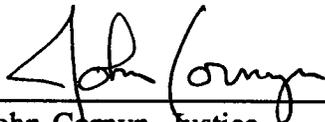
  
Thomas R. Phillips, Chief Justice

  
Raul A. Gonzalez, Justice

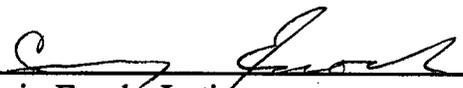
  
Jack Hightower, Justice

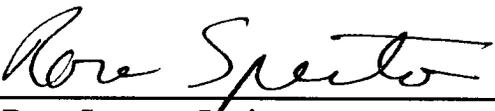
  
Nathan L. Hecht, Justice

  
Lloyd Deggert, Justice

  
John Cornyn, Justice

  
Bob Gammage, Justice

  
Craig Enoch, Justice

  
Rose Spector, Justice

BOARD OF LAW EXAMINERS

IN THE MATTER OF ) ( IN PUBLIC HEARING AT  
JAMES M. CARLSON ) ( AUSTIN, TEXAS

ORDER

On November 5, 1993, came on to be heard before the Board of Law Examiners (hereinafter "Board"), with Warlick Carr, Chair, presiding, the matter of James M. Carlson, wherein the Board was represented by Bruce Wyatt, Staff Attorney, and Mr. Carlson was represented by Timothy W. Sorenson.

Mr. Carlson previously appeared in a hearing before the Board on June 26, 1991, after which the Board voted to approve conditionally his present good moral character and fitness and to recommend him for a two-year temporary license upon his passing the bar examination. Mr. Carlson subsequently passed the bar examination and was granted a temporary license in November of 1991. The conditions of the temporary license required, among other things, that Mr. Carlson abstain from the use of alcohol, be subject to the supervision of an attorney monitor appointed to track his progress, and report to the Board any circumstances which would affect the license.

On or about August 27, 1993, Mr. Sorenson reported to the Board that he was representing Mr. Carlson, and that Mr. Carlson had relapsed in June, 1993, in violation of the third condition of his temporary license, which stated that he was to remain abstinent from all alcohol throughout the term of his temporary license. On

October 6, 1993, the Board sent Mr. Carlson, through his attorney of record, proper and timely notice of a November 5, 1993 hearing. The notice letter stated that among the issues to be considered at the hearing was whether the Board should recommend that Mr. Carlson's temporary license be revoked due to his failure to abide by its conditions.

After considering the evidence and testimony, the Board finds:

1. that following his June 26, 1991 hearing before the Board, Mr. Carlson agreed, as evidenced by his signature on July 12, 1991, to accept and comply with the conditions of his temporary license agreement;
2. that Mr. Carlson has violated condition 3 of his temporary license agreement, which requires him to remain abstinent from the use of alcohol, as evidenced by Mr. Sorenson's August 1993 report of Mr. Carlson's June 10, 1993 relapse and arrest for D.W.I., in Atlanta, Georgia, to which Mr. Carlson testified he had agreed to plead no contest;
3. that Mr. Carlson has violated condition 5 of his temporary license agreement, which requires him to obtain an Alcoholics Anonymous sponsor and to provide documentation of his required attendance at Alcoholics Anonymous meetings on a weekly basis to his attorney monitor, as evidenced by Mr. Carlson's testimony and by the periodic reports which his attorney monitor has provided to the Board;
4. that Mr. Carlson has violated condition 7 of his temporary license agreement, which requires him to make a bona fide effort to work actively all of the steps of the Alcoholics Anonymous program within the first year of his recovery, as evidenced by Mr. Carlson's testimony and by the periodic reports which his attorney monitor has provided to the Board;
5. that Mr. Carlson has violated condition 13 of his temporary license agreement, which requires him to continue to advise the Board of any circumstances occurring after the Board hearing which would affect the temporary license, by his failure to notify the Board promptly of the fact of his June 10, 1993 relapse and arrest;
6. that pursuant to condition 14 of Mr. Carlson's temporary license agreement, his temporary license should be

revoked due to his failure to meet the conditions of the agreement;

7. that Mr. Carlson is entitled to neither a probationary license nor to the renewal of his temporary license as a probationary license;
8. that there is a clear and rational connection between Mr. Carlson's dishonesty in failing to notify the Board of his June 10, 1993 relapse and arrest until on or about August 27, 1993 and the likelihood that he would injure a client, obstruct the administration of justice, or violate the Code of Professional Responsibility if he were licensed to practice law at the present time;
9. that there is a clear and rational connection between Mr. Carlson's lack of trustworthiness in carrying out responsibilities as established by findings 2 - 5 herein and the likelihood that he would injure a client, obstruct the administration of justice, or violate the Code of Professional Responsibility if he were licensed to practice law at the present time; and
10. that Mr. Carlson has not successfully completed treatment for his chemical dependency, that he has not been free from chemical dependency for the preceding two years, and thus, pursuant to Section 82.038(f), Texas Government Code, he is not entitled to be granted a regular license to practice law.

IT IS THEREFORE ADJUDGED, ORDERED AND DECREED that the Board shall recommend to the Supreme Court of Texas that Mr. Carlson's temporary license be revoked. IT IS FURTHER ORDERED that Mr. Carlson is not entitled to a probationary license.

IT IS FURTHER ORDERED that Mr. Carlson does not possess the present good moral character required for admission to the practice of law in Texas; that Mr. Carlson may re-apply for admission no earlier than November 4, 1994; and that any such re-application shall be accompanied by the supplemental investigation form then in effect and all applicable fees.

IT IS FURTHER ORDERED that, in order to be found to have the requisite character to become qualified for admission to the

practice of law in Texas, Mr. Carlson shall comply with the following conditions:

1. Commit no offense against the laws of this state or of any other state or of the United States;
2. Work faithfully at suitable employment as far as possible;
3. Conduct himself in such a way so as to avoid, and not be subject to disciplinary action for, the breach of any regulation, rule, or statute governing any profession in which he may be engaged;
4. Become involved, to the extent possible, in positive activities to demonstrate his rehabilitation from the problems set out in findings of this Order;
5. Demonstrate that he has rehabilitated himself from his lack of trustworthiness in carrying out responsibilities as described above;
6. Demonstrate that he has rehabilitated himself from his dishonesty as established by the lack of candor as described above;
7. Refrain from engaging in any conduct that evidences a lack of good moral character or fitness;
8. Satisfactorily address the concerns of the Board regarding his good moral character at a second hearing to be set following receipt of his re-application; and
9. Demonstrate that he has successfully completed treatment for his chemical dependency and that he has been free from chemical dependency for the two years immediately preceding his re-application.

SIGNED this 20<sup>th</sup> day of February, 1994.

  
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Warlick Carr, Chair

COPY

CAUSE NO. 93-15484

JAMES M. CARLSON,  
Petitioner

V.

THE BOARD OF LAW EXAMINERS  
OF THE STATE OF TEXAS,  
Defendant

\* IN THE DISTRICT COURT  
\*  
\* TRAVIS COUNTY, TEXAS  
\*  
\* 345TH DISTRICT COURT  
\*  
\*

ORDER

CAME ON TO BE HEARD in the above captioned case the Petitioner James M. Carlson's Petition for Temporary and Permanent Injunction and administrative appeal of the Defendant Board of Law Examiners' decision to revoke the Petitioner's temporary license to practice law. The Petitioner appeared in person and through counsel. The Defendant appeared through its Executive Director and through counsel.

The Court has considered the evidence, the pleadings, the written briefs, and argument of counsel, as well as the record and the Board's revised order and findings dated February 20, 1994. Accordingly, the Court finds the following:

a) the temporary license under review should be treated as a probationary license and thus the statute and rules affecting probationary licenses apply;

b) the central question before this Court is whether the Board of Law Examiners should have issued the Petitioner a regular license or a second probationary license rather than revoke his temporary license;

c) section 82.038(f) of the Texas Government Code effectively prevents the Board from issuing the Petitioner a regular license at this time;

d) the record contains substantial evidence supporting the Board of Law Examiners' order of February 20, 1994, which revoked Mr. Carlson's temporary license, and denied him a probationary license;

e) the Court finds that, as to Finding Number 8 of the Board's order, the Board's conclusion of "dishonesty" by Mr. Carlson is unduly harsh. That Finding stated that Mr.

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*[Signature]*  
DISTRICT CLERK  
TRAVIS COUNTY, TEXAS

Carlson acted dishonestly by waiting until August 27, 1993, to report the July 9, 1993 violation of his temporary license. The Court would characterize this delay as a product of Mr. Carlson's struggle with his own conscience and would note that it was Mr. Carlson who ultimately decided to inform the Board of the violation.

IT IS THEREFORE ORDERED that the Petitioner's request for injunctive relief and reversal of the Board's decision is DENIED, and that the February 20, 1994, Order of the Board of Law Examiners revoking the Petitioner's temporary license is AFFIRMED. It is the Court's intention that this order shall constitute a final and appealable judgment.

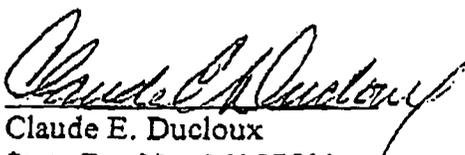
Petitioner shall pay costs of court.

SIGNED this 13<sup>th</sup> day of March, 1994.



F. SCOTT MCCOWN  
JUDGE, 345TH DISTRICT COURT  
TRAVIS COUNTY

APPROVED AS TO FORM:



Claude E. Ducloux  
State Bar No. 06157500  
111 Congress suite 1650  
Austin, Texas 78701  
(512) 474-7054  
ATTORNEY FOR PETITIONER



Stuart W. Bowen, Jr.  
State Bar No. 02724900  
Capitol Station, Box 12548  
Austin, Texas 78711  
(512) 475-4208  
ATTORNEY FOR DEFENDANT