

ORDER OF THE SUPREME COURT OF TEXAS

Misc Docket No. 94- 9123

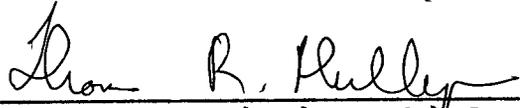
Appointment of a District Judge to Preside
in a State Bar Disciplinary Action

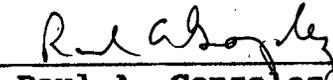
The Supreme Court of Texas hereby appoints the Honorable Paul Banner, Judge of the 196th District Court, to preside in the Disciplinary Action styled:

The Commission for Lawyer Discipline v. Eric R. Turton
to be filed in a District Court of Bexar County, Texas.

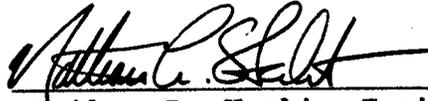
The Clerk of the Supreme Court shall promptly forward to the District Clerk of Bexar County, Texas, a copy of this Order and of the Disciplinary Petition for filing and service pursuant to Rule 3.03, Texas Rules of Disciplinary Procedure.

In Chambers, this 26th day of ~~July~~^{August}, 1994.

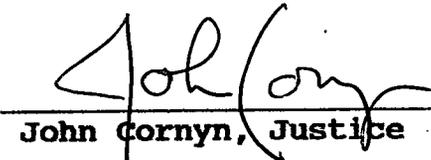

Thomas R. Phillips, Chief Justice


Raul A. Gonzalez, Justice

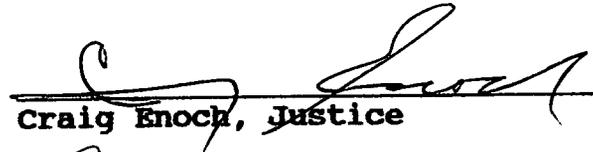

Jack Hightower, Justice

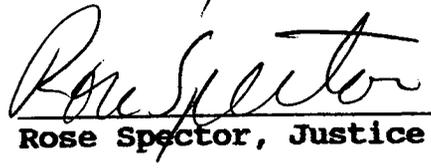

Nathan L. Hecht, Justice


Lloyd Doggett, Justice


John Cornyn, Justice

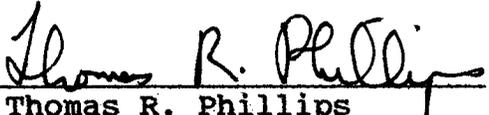

Bob Gamage, Justice


Craig Enoch, Justice


Rose Spector, Justice

This assignment, made by Misc. Docket No. 94-9123, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code §74.057.

Signed this 26th day of August, 1994.


Thomas R. Phillips
Chief Justice

NO. _____

COMMISSION FOR LAWYER DISCIPLINE § IN THE DISTRICT COURT OF
V. § BEXAR COUNTY, TEXAS
ERIC R. TURTON § ____ 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, Eric R. Turton (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 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 Bexar County, Texas. An officer may serve citation on Respondent at 2200 Tower Life Building, San Antonio, Bexar County, Texas.

III.

On or about August 27, 1990, Ralph Romero (hereinafter called "Romero") entered into an attorney-client contract with Respondent wherein Respondent agreed to represent Romero's interests in connection with a dispute Romero had with State and County Mutual Insurance Company regarding Romero's claim for damages as a result of the theft of his car in or around June of 1990. Romero paid Respondent a Five Hundred and no/100 (\$500.00) Dollar retainer which the attorney-client contract provided would be nonrefundable. The attorney-client contract further provided that Respondent would be paid on an hourly fee basis at the rate of One Hundred Fifty and no/100 (\$150.00) Dollars per hour.

IV.

On or about November 21, 1990, Respondent filed suit on Romero's behalf under Cause No. 90-CI-16611, styled Ralph Romero vs. State and County Mutual Insurance Company, In the District Court of Bexar County, Texas, 150th Judicial District (hereinafter called the "Romero lawsuit"). Thereafter, Respondent failed to pursue obtaining service upon the defendant in the Romero lawsuit, failed to take any meaningful steps to pursue Romero's interests in the Romero lawsuit, and frequently failed to comply with requests for information regarding the status of his case received from Romero.

V.

In or around April of 1992, Respondent received notification that the Romero lawsuit was placed on a dismissal docket to be called on or about May 5, 1992. Respondent contacted Romero and met with him in early May. At such meeting, Romero indicated that he no longer desired to represent Romero or words to that effect, tendering to Romero Five Hundred and no/100 (\$500.00) Dollars. At that time, Respondent neither delivered Romero's file to him, nor took any steps to assure that Romero's lawsuit was not dismissed for want of prosecution on May 5, 1992, nor took any steps to formally withdraw as the attorney of record for Romero in the Romero lawsuit. As a result of Respondent's failure to take any steps to maintain the Romero lawsuit on the court's docket, the Romero lawsuit was dismissed for want of prosecution on or about May 5, 1992. Respondent failed to notify Romero that the Romero lawsuit had been dismissed for want of prosecution and failed to take any steps to either reinstate the Romero lawsuit or to appeal the dismissal.

VI.

During the months following, Romero made inquiry at Respondent's office several times regarding obtaining his file from Respondent. In response, he was told each time that the file could not be located or words to that effect until in or around January of 1993 when Respondent and/or someone in his employ notified Romero that the file had been located. Respondent did

not indicate at that time that the case had been dismissed for want of prosecution. In fact, Romero did not learn of the true status of his case until inquiry was made on Romero's behalf by another lawyer whom Romero contacted for that purpose.

VII.

In failing to pursue Romero's case after filing the same, Respondent effectively abandoned the representation of Romero and thereafter failed to take the steps reasonably necessary to protect Romero's interests.

VIII.

Such acts and/or omissions on the part of Respondent as are described in Paragraphs III., IV., V., VI., and VII. hereinabove constitute conduct violative of Rules 1.01(b)(1), 1.01(b)(2), 1.03(a), 1.03(b), and/or 1.15(d) of the Texas Disciplinary Rules of Professional Conduct.

IX.

The complaint which forms the basis of the cause of action hereinabove set forth was brought to the attention of the Office of General Counsel, State Bar of Texas, by Romero's filing of a complaint on or about August 24, 1993.

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,

James M. McCormack
General Counsel

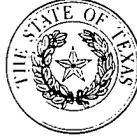
Dawn Miller
Senior Assistant General Counsel

Office of the General Counsel
State Bar of Texas
P.O. Box 12487
Austin, Texas 78711
(512) 463-1463
FAX (512) 477-4607



Dawn Miller
State Bar of Texas No. 15561900

ATTORNEYS FOR PETITIONER



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

EXECUTIVE ASS'T.
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T.
NADINE SCHNEIDER

JUSTICES
RAUL A. GONZALEZ
JACK HIGHTOWER
NATHAN L. HECHT
LLOYD DOGGETT
JOHN CORNYN
BOB GAMMAGE
CRAIG ENOCH
ROSE SPECTOR

August 26, 1994

The Honorable David J. Garcia
District Clerk of Bexar County
100 Dolorosa Street
San Antonio, Texas 78205-1205

Dear Mr. Garcia:

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. Eric R. Turton. and a copy of the Supreme Court's order appointing the Honorable Paul Banner, Judge of the 196th District Court, to preside in this Disciplinary Action.

Sincerely,

SIGNED

John T. Adams
Clerk

cc: Hon. Paul Banner
Mr. Eric R. Turton
Mr. James M. McCormack



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

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JOHN CORNYN
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CRAIG ENOCH
ROSE SPECTOR

Honorable Paul Banner
Judge, 196th District Court
P. O. Box 1097
Greenville, Texas 75403-1097

Dear Judge Banner:

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. Turton and Mr. McCormack, and a copy of the letter to the District Clerk of Bexar County.

It is recommended that, ten days to two weeks after receipt of this letter, you or your coordinator contact the presiding judge of Bexar County 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 contact the Bexar County Administrative Office (210-220-2300) 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 (210-769-3519) to 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

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August 26, 1994

JUSTICES
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WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T.
NADINE SCHNEIDER

Mr. James M. McCormack
General Counsel, State Bar of Texas
P.O. Box 12487
Austin, Texas 78711

Mr. Eric R. Turton
2200 Tower Life Building
San Antonio, Texas 78205

Dear Mr. McCormack and Mr. Turton:

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 Paul Banner, Judge of the 196th District Court, Greenville, Texas to preside in

Commission for Lawyer Discipline v. Eric R. Turton.

Sincerely,

SIGNED

John T. Adams
Clerk