

ORDER OF THE SUPREME COURT OF TEXAS

Misc Docket No. 94-9150

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

The Supreme Court of Texas hereby appoints the Honorable Terry Canales, Judge of the 79th District Court of Brooks County, Texas, to preside in the Disciplinary Action styled:

The Commission for Lawyer Discipline v. Robert Nino

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.

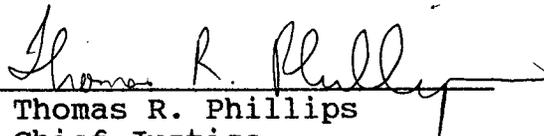
As ordered by the Supreme Court of Texas, in chambers,

with the Seal thereof affixed at the City
of Austin, this 12th day of October, 1994.


JOHN T. ADAMS, CLERK
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 94-9150 , is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code §74.057.

Signed this 13th day of October , 1994.


Thomas R. Phillips
Chief Justice

NO. _____

COMMISSION FOR LAWYER DISCIPLINE	§	IN THE DISTRICT COURT OF
V.	§	HARRIS COUNTY, TEXAS
ROBERT NINO	§	_____ 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, Robert Nino, (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 on or 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 Harris County, Texas. An officer may serve citation on Respondent at 2900 Woodridge, Suite 305, Houston, Harris County, Texas 77087.

III.

On or about October 26, 1990, Arnulfo Garcia (hereinafter called "Garcia") hired Respondent to sue state and local law enforcement authorities that had allegedly conducted a wrongful raid on Garcia's business in Weslaco, Texas. At the time Garcia hired Respondent, he paid him a \$500.00 retainer fee, and agreed to pay an additional \$1,000.00 in attorney's fees. Garcia paid Respondent \$950.00 in additional attorney's fees in and around January, 1992.

IV.

After being hired, Respondent never filed a lawsuit on Garcia's behalf and failed to take any action whatsoever to prosecute his case. In addition, Respondent failed to respond to Garcia's repeated requests for information regarding the status of his case. On or about August 11, 1993, Garcia's son, Angel Garcia, wrote to Respondent and requested that Respondent refund the attorney's fees paid to him by Garcia since he had failed to provide any legal services to Garcia. In addition, Garcia wrote to Respondent on or about September 17, 1993, requesting a copy of his file. Respondent thereafter failed to refund any unearned attorney's fees to Garcia or to provide Garcia with a copy of his file.

V.

On or about August 18, 1993, Respondent wrote to Angel Garcia and informed him that since he had invested approximately twenty (20) hours of his time on his father's case, that he was entitled to keep \$700.00 of the retainer fee and would only refund \$750.00 to Garcia. However, Respondent never provided Garcia with documents detailing attorney time and expenses billed against the retainer fee, and never refunded \$750.00 as promised.

VI.

Respondent later produced two letters that he had purportedly mailed to Garcia but that Garcia never received. The first letter was dated October 20, 1990, and was purportedly sent to Garcia six (6) days before he hired Respondent. In such letter, Respondent indicates that the \$1,500.00 retainer fee is only intended to pay for Respondent's time and expenses to travel to Weslaco, Texas to visit Garcia, and not for any additional legal services. The second letter, dated November 1, 1990, advises Garcia to not pursue his case and informs him that Respondent will no longer represent him. In addition, Respondent reminds Garcia that he still owed \$1,000.00 in attorney's fees. Petitioner contends that neither the October, 1990 nor the November, 1990 letters were prepared or sent to Garcia on the dates indicated, but were instead manufactured by Respondent after Garcia filed his complaint with the State Bar of Texas.

VII.

Such acts and/or omissions on the part of Respondent as are described in Paragraphs III., IV., V. and VI. hereinabove which occurred on or after January 1, 1990, constitute conduct which violates Rules 1.01(a), 1.01(b)(1), 1.01(b)(2), 1.03(a), 1.15(d), and/or 8.04(a)(3) of the Texas Disciplinary Rules of Professional Conduct.

VIII.

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 of the State Bar of Texas by Arnulfo Garcia filing of a complaint on or about September 13, 1993.

PRAYER

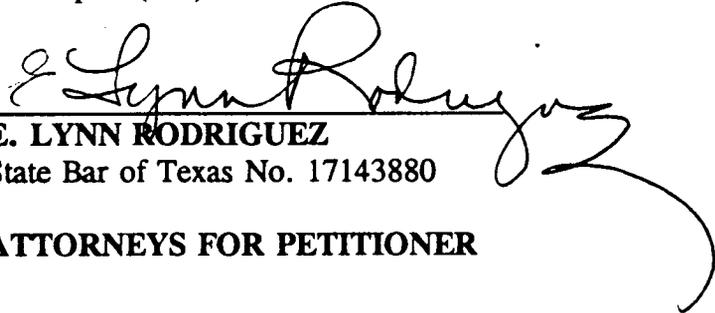
WHEREFORE, PREMISES CONSIDERED, Petitioner prays for judgment that Respondent be disciplined as the facts shall warrant; and that Petitioner have such other relief to which entitled, including costs of Court and attorney's fees.

Respectfully submitted,

James M. McCormack
General Counsel

E. Lynn Rodriguez
Assistant General Counsel

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


E. LYNN RODRIGUEZ
State Bar of Texas No. 17143880

ATTORNEYS FOR PETITIONER

u:\users\catherin\Lynn\nino.dp



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

EXECUTIVE ASS'T.
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T.
NADINE SCHNEIDER

October 12, 1994

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

Mr. Robert Nino
2900 Woodridge, Suite 305
Houston, Texas 77087

Dear Mr. McCormack and Mr. Nino:

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 Terry Canales, Judge of the 79th District Court, Falfurrias, Texas to preside in

Commission for Lawyer Discipline v. Robert Nino

Sincerely,

SIGNED

John T. Adams
Clerk



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

EXECUTIVE ASS'T.
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T.
NADINE SCHNEIDER

October 12, 1994

Honorable Terry Canales
Judge, 79th District Court
P. O. Box 482
Falfurrias, Texas 78355

Dear Judge Canales:

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. Nino and Mr. McCormack, and a copy of the letter to the District Clerk of Harris County.

It is recommended that, several weeks after receipt of this letter, you or your coordinator contact the Harris County District Court Administrative Office (713-755-6576) to find out in which court the case has been filed, 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 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

TEL: (512) 463-1312

FAX: (512) 463-1365

CLERK
JOHN T. ADAMS

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

EXECUTIVE ASS'T.
WILLIAM L. WILLIS

October 12, 1994

ADMINISTRATIVE ASS'T.
NADINE SCHNEIDER

The Honorable Katherine Tyra
District Clerk of Harris County
P.O. Box 4651
Houston, Texas 77210

Dear Ms. Tyra:

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. Robert Nino and a copy of the Supreme Court's order appointing the Honorable Terry Canales, Judge of the 79th District Court, Falfurrias, Texas, to preside in this Disciplinary Action.

Sincerely,

SIGNED

John T. Adams
Clerk

cc: Hon. Terry Canales
Mr. Robert Nino
Mr. James M. McCormack