

ORDER OF THE SUPREME COURT OF TEXAS

Misc Docket No. 96- 9269

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

The Supreme Court of Texas hereby appoints the Honorable Louis Gohmert, Jr., Judge of the 7th District Court of Smith County, Texas, to preside in the Disciplinary Action styled:

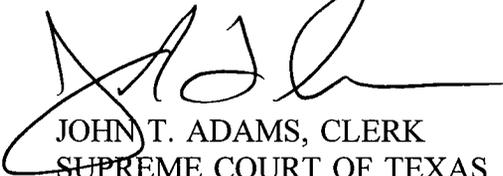
The Commission for Lawyer Discipline v. James H. Stokes, Jr.

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.

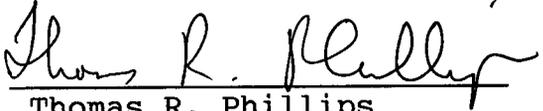
As ordered by the Supreme Court of Texas, in chambers,

with the Seal thereof affixed at the City
of Austin, this 5th day of December, 1996.


JOHN T. ADAMS, CLERK
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 96-9269, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code §74.057.

Signed this 9 day of December, 1996.


Thomas R. Phillips
Chief Justice

CAUSE NO. _____

COMMISSION FOR LAWYER DISCIPLINE	§	IN THE DISTRICT COURT OF
	§	
v.	§	HARRIS COUNTY, TEXAS
	§	
JAMES H. STOKES, JR.	§	_____ 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, James H. Stokes, Jr. (hereinafter called "Respondent"), showing the Court:

I.

Petitioner brings this disciplinary action pursuant to the State Bar Act, Texas Government Code Annotated §81.001, *et seq.* (Vernon 1988 and supp. 1994), the Texas Disciplinary Rules of Professional Conduct and the Texas Rules of Disciplinary Procedure. The complaint that forms the basis of this 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, and therefore venue is appropriate in Harris County, Texas, pursuant to Rule

3.03 of the Texas Rules of Disciplinary Procedure. Respondent may be served at his business address located at 5821 Southwest Freeway, Suite 220, Houston, Texas, 77057.

III.

On or about March 20, 1995, Jerald Dreyer (hereinafter called "Dreyer") was involved in an automobile accident in San Antonio, Texas. On or about March 25, 1995, an individual by the name of Danny Sanchez (hereinafter called "Sanchez"), left a message on Dreyer's answering machine. Subsequently, Dreyer spoke with Sanchez and Sanchez advised Dreyer that he could procure medical help and legal representation for Dreyer.

IV.

Sanchez later met with Dreyer that same day at Dreyer's home and set up an appointment for Dreyer at St. Thomas Rehabilitation Center (hereinafter called "St. Thomas"). Sanchez gave Dreyer one of St. Thomas' business cards, that included the handwritten address of Respondent's office in San Antonio on the back of the card. Sanchez also informed Dreyer that he would call Dreyer back to let him know who his attorney would be.

V.

On the following Monday, an employee of Respondent's, by the name of Maria, called Dreyer to let him know that he had an appointment at Respondent's office later that

same day. Sanchez also called Dreyer that day, and informed Dreyer that he had an appointment at Respondent's office.

VI.

On or about March 27, 1995, Dreyer signed a contract, hiring Respondent to represent him.

VII.

Respondent directly, indirectly, or through the actions of Sanchez, sought professional employment from Dreyer by in-person or telephone contact when a significant motive was Respondent's pecuniary gain, even though Dreyer had not sought Respondent's advice, and Respondent did not have a family or prior attorney-client relationship with Dreyer.

Respondent accepted or continued employment when he knew or reasonably should have known that the reason Dreyer sought Respondent's services was as a result of improper solicitation prohibited by the Texas Disciplinary Rules of Professional Conduct.

VIII.

The acts and/or omissions of the Respondent described in Paragraphs III - VII above, which occurred on or after January 1, 1990, constitute conduct in violation of Rules 7.03(a) [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. Notwithstanding the provisions of this paragraph, a lawyer for a qualified nonprofit organization may communicate with the organization's members for the purpose of educating the members to understand the law, to recognize legal problems, to make intelligent selection of counsel, or to use legal services]; 7.03(b) [for paying, giving, or offering to pay or giving anything of value to a person not licensed to practice law for soliciting prospective clients for, or referring clients or prospective clients to any lawyer or firm]; and 8.04(a)(9) [for engaging in conduct that constitutes barratry as defined by the laws of the State of Texas]; of the Texas Disciplinary Rules of Professional Conduct.

IX.

The complaint that forms the basis of this cause of action was brought to the attention of the Office of the General Counsel of the State Bar of Texas by James Mazuca's filing of a complaint on or about May 10, 1995.

Prayer

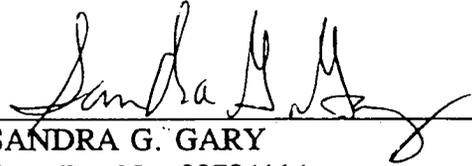
WHEREFORE, PREMISES CONSIDERED, Petitioner the COMMISSION FOR LAWYER DISCIPLINE respectfully prays that this Court discipline Respondent, JAMES H. STOKES, Jr., as the facts shall warrant; and that the Petitioner have all other relief to which it may show itself to be justly entitled, including costs of court and attorney's fees.

Respectfully submitted,

Steven W. Young
General Counsel

Sandra G. Gary
Assistant General Counsel

Office of the General Counsel
STATE BAR OF TEXAS
1111 Fannin, Suite 1370
Houston, Texas 77002
(713) 759-6931
Fax No. (713) 759-2158

A handwritten signature in black ink, appearing to read "Sandra G. Gary", is written over a horizontal line.

SANDRA G. GARY
State Bar No. 00784114

ATTORNEYS FOR THE COMMISSION
FOR LAWYER DISCIPLINE

STATE BAR OF TEXAS



Office of the General Counsel

September 16, 1996

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

Re: Commission for Lawyer Discipline v. James H. Stokes, Jr.

Dear Mr. Adams:

Enclosed please find an original and two (2) copies of a Disciplinary Petition being filed by the Commission for Lawyer Discipline against James H. Stokes, Jr.. Mr. Stokes is a resident of Harris County, Texas. 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 hereby made that you notify the Respondent at the address shown below and the undersigned of the identity and address of the judge assigned:

James H. Stokes, Jr.
5821 Southwest Freeway, Suite 220
Houston, Texas 77057

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 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.

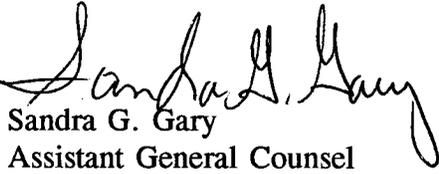
Once a trial judge has been appointed, please forward the original and two (2) copies of the Disciplinary Petition, the filing fee check, also enclosed herewith, and the Court's appointing order to the District Clerk of Harris County, Texas, with the request that the suit be filed, citation be issued, and citation, along with a file-stamped copy of the petition be returned to the undersigned.

Mr. John T. Adams, Clerk
Supreme Court of Texas
September 16, 1996
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Also enclosed are a pre-addressed envelope for your use in transmitting the petition, etc., to the District Clerk of Harris County, Texas, and a return envelope to be sent to the District Clerk of Harris County, Texas, for the Clerk's use in returning a filemarked copy of the petition to the undersigned.

If you have any questions, please contact me. Thank you for your assistance.

Very truly yours,


Sandra G. Gary
Assistant General Counsel

SGG/dy
enclosures



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
NATHAN L. HECHT
JOHN CORNYN
CRAIG ENOCH
ROSE SPECTOR
PRISCILLA R. OWEN
JAMES A. BAKER
GREG ABBOTT

December 16, 1996

Honorable Louis Gohmert, Jr.
Judge, 7th District Court
203 Courthouse
100 N. Broadway Avenue
Tyler, Texas 75702

Dear Judge Gohmert:

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. Stokes and Ms. Gary and a copy of the letter to the District Clerk of Harris County.

It is recommended that, six to eight weeks after receipt of this letter, you contact the Harris County District Court Administrative Office (713-755-7593) 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 again contact the Harris County District Court Administrative Office (713-755-6593) 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 information on lodging, allowable expenses, and 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

EXECUTIVE ASST
WILLIAM L. WILLIS

ADMINISTRATIVE ASST
NADINE SCHNEIDER

JUSTICES
RAUL A. GONZALEZ
NATHAN L. HECHT
JOHN CORNYN
CRAIG ENOCH
ROSE SPECTOR
PRISCILLA R. OWEN
JAMES A. BAKER
GREG ABBOTT

December 16, 1996

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

Dear Mr. Bacarisse:

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. James H. Stokes, Jr., and a copy of the Supreme Court's order appointing the Honorable Louis Gohmert, Jr., Judge of the 7th District Court of Tyler, Texas, to preside in this Disciplinary Action.

Sincerely,

SIGNED

John T. Adams
Clerk

cc: Hon. Louis Gohmert, Jr.
Ms. Sandra G. Gary
James H. Stokes, Jr.



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

POST OFFICE BOX 12248 AUSTIN, TEXAS 78711

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JAMES A. BAKER
GREG ABBOTT

December 16, 1996

Ms. Sandra G. Gary
Assistant General Counsel, State Bar of Texas
1111 Fannin, Suite 1370
Houston, Texas 77002

Mr. James H. Stokes, Jr.
5821 Southwest Freeway, Suite 220
Houston, Texas 77057

Dear Ms. Gary and Mr. Stokes:

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 Louis Gohmert, Jr., Judge of the 7th District Court of Tyler, Texas to preside in

Commission for Lawyer Discipline v. James H. Stokes, Jr.

Sincerely,

SIGNED

John T. Adams
Clerk