

ORDER OF THE SUPREME COURT OF TEXAS

Misc Docket No. 97- ~~9042~~

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

The Supreme Court of Texas hereby appoints the Honorable John M. Delaney, Judge of the 272nd District Court of Brazos County, Texas, to preside in the Disciplinary Action styled:

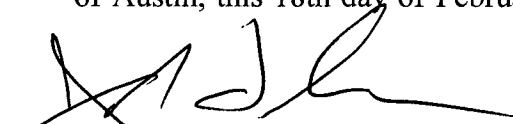
The Commission for Lawyer Discipline v. Patricia Ann Presley

to be filed in a District Court of Travis County, Texas.

The Clerk of the Supreme Court shall promptly forward to the District Clerk of Travis 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,

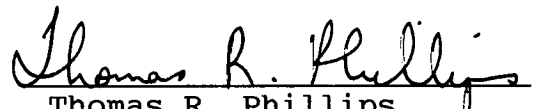
with the Seal thereof affixed at the City
of Austin, this 18th day of February, 1997.



JOHN T. ADAMS, CLERK
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 97-9042, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code §74.057.

Signed this 24 day of February, 1997.


Thomas R. Phillips
Chief Justice

NO. _____

COMMISSION FOR LAWYER DISCIPLINE	§	IN THE DISTRICT COURT OF
V.	§	TRAVIS COUNTY, TEXAS
PATRICIA ANN PRESLEY	§	_____ 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, Patricia Ann Presley, (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 July 17, 1996.

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 her principal place of practice in Travis County, Texas. An officer may serve citation on Respondent at her business address located at 1309 Rosewood Avenue, Austin, Travis County, Texas 78702.

III.

In or around January of 1994, Norma Connor (hereinafter "Complainant") and her son, Jesse Noe, consulted with Patricia Ann Presley (hereinafter "Respondent") regarding the merits of a possible cause of action that Noe believed he had against Galveston County and others for

wrongful arrest and false imprisonment. At this meeting, Noe and Respondent entered into a Retainer Agreement. The terms of the agreement allowed for a \$10,000.00 retainer plus a contingency fee contract. Pursuant to the agreement, Complainant paid a down payment of \$2,000.00 at that time and agreed to make monthly payments in the amount of \$300.00 until the balance was paid in full. In addition to the retainer, Respondent also charged \$500.00 for an interview that she conducted with Noe in or around December of 1994 and \$250.00 to hire an investigator. At the time of the filing of the grievance, Complainant had remitted to Respondent a total of \$11,050.00.

Between January of 1994, when Respondent first agreed to represent Noe and accepted payment related to his case, and July of 1996, when Complainant filed her grievance with the State Bar of Texas, Respondent performed little or no meaningful work in Noe's case. Most importantly, Respondent never filed any documents related to a petition on Noe's behalf, nor does it appear that she was in the process of doing so. Due to Respondent's neglect of this matter, the statute of limitations for any potential cause of action that Noe may have had against Galveston County has long since expired. Furthermore, during the time that Respondent was retained as Noe's legal counsel, Respondent neglected to communicate properly with her client and Complainant concerning the development and status of the case by failing to return phone calls from both Noe and Complainant. In addition, Respondent also neglected to respond to correspondence she received from Complainant on behalf of Noe.

On July 18, 1996, Complainant received a cashier's check in the amount of \$10,000.00, payable to her, the remitter being the Law Offices of Patricia A. Presley.

V.

By her conduct in performing little meaningful work in Noe's case, Respondent committed professional misconduct in violation of Rule 1.01(a) [a lawyer shall not accept or continue employment in a legal matter which the lawyer knows or should know is beyond the lawyer's competence], Rule 1.01(b)(1) [a lawyer shall not neglect a legal matter entrusted to the lawyer] and Rule 1.01 (b)(2) [a lawyer shall not frequently fail to carry out completely the obligations that the lawyer owes to a client or clients] of the Texas Rules of Professional Conduct and Part 1.06(Q) of the Texas Rules of Disciplinary Procedure.

By her conduct in neglecting to communicate properly with Noe and Complainant, Respondent committed professional misconduct in violation of Rule 1.03(a) [a lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information] and 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] of the Texas Disciplinary Rules of Professional Conduct and Part 1.06(Q) of the Texas Rules of Disciplinary Procedure.

In her conduct of misleading Noe and Complainant into believing that she was pursuing a wrongful arrest/false imprisonment cause of action, when in fact was performing little or no meaningful work on behalf of her client, Respondent committed professional misconduct in violation of Rule 8.04(a)(3) [a lawyer shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation] of the Texas Disciplinary Rules of Professional Conduct and Part 1.06(Q) of the Texas Rules of Disciplinary Procedure.

By failing to respond in a timely fashion to the grievance filed against her, Respondent

committed professional misconduct in violation of Rule 8.04(a)(8) [a lawyer shall not fail to timely furnish to the Chief Disciplinary Counsel's office or a district grievance committee a response or other information . . . unless he or she in good faith timely asserts a privilege or other legal ground for failure to do so] and Rule 8.01(b) [a lawyer shall not fail to correct a misapprehension known by the person to have arisen in the matter, or knowingly fail to respond to a lawful demand from . . . a disciplinary authority] of the Texas Disciplinary Rules of Professional Conduct and Part 1.06(Q) of the Texas Rules of Disciplinary Procedure.

VI.

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 Complainant's filing a grievance on or about July 17, 1996.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Petitioner COMMISSION FOR LAWYER DISCIPLINE prays that this Court discipline Respondent PATRICIA ANN PRESLEY by

disbarment, suspension, or reprimand 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,

Steven W. Young
General Counsel

Brian Plotts
Assistant General Counsel

Office of the General Counsel
State Bar of Texas
P.O. Box 12487
Austin, Texas 78711-2487
512/463-1463
512/477-4607 (FAX)


A handwritten signature in black ink, appearing to read 'Brian Plotts', is written over a horizontal line.

Brian Plotts
State Bar of Texas No. 16074050

ATTORNEYS FOR PETITIONER

STATE BAR OF TEXAS



Office of the General Counsel

January 15, 1997

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

Re: Commission for Lawyer Discipline v. Patricia Ann Presley

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 Patricia Ann Presley. Ms. Presley designated Travis County, Texas, as her 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:

Patricia Ann Presley
1309 Rosewood Avenue
Austin, Texas 78702

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 Travis County, Texas, with the request that the suit be filed, service be obtained, and a filemarked copy of the petition be returned to the undersigned.

Also enclosed are a pre-addressed envelope for your use in transmitting the petition, etc., to the District Clerk of Travis County, Texas, and a return envelope to be sent to the District Clerk of

January 15, 1997
John T. Adams, Clerk
Supreme Court of Texas

Travis 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 black ink, appearing to read 'BP', with a stylized flourish extending to the right.

Brian Plotts
Assistant General Counsel

gd/BP

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

FEB 25 1997

Honorable John M. Delaney
Judge, 272nd District Court
204 Courthouse
300 E. 26th Street
Bryan, Texas 77803

Dear Judge Delaney:

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 Ms. Presley and Mr. Plotts, and a copy of the letter to the District Clerk of Travis County.

It is recommended that, about a month or six weeks after receipt of this letter, you contact the Travis County Court Administrative Office (512-753-9300) (certainly just before or immediately after you set the case for trial) 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 (210-379-8556) 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

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ROSE SPECTOR
PRISCILLA R. OWEN
JAMES A. BAKER
GREG ABBOTT

FEB 25 1997

The Honorable Amalia Rodriguez-Mendoza
District Clerk of Travis County
P.O. Box 1748
Austin, Texas 78767-1748

Dear Mr. Rodriguez-Mendoza:

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. Patricia Ann Presley, and a copy of the Supreme Court's order appointing the Honorable John M. Delaney, Judge of 272nd District Court, Bryan, Texas, to preside in this Disciplinary Action.

Sincerely,

SIGNED

John T. Adams
Clerk

cc: Hon. John M. Delaney
Mr. Brian Plotts
Ms. Presley



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

FEB 25 1997

Mr. Brian Plotts
Assistant General Counsel, State Bar of Texas
P.O. Box 12487
Austin, Texas 78711

Ms. Patricia Ann Presley
1309 Rosewood Avenue
Austin, Texas 78702

Dear Mr. Plotts and Ms. Presley:

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 John M. Delaney, Judge of the 272nd District Court, Bryan, Texas to preside in

Commission for Lawyer Discipline v. Patricia Ann Presley

Sincerely,

SIGNED

John T. Adams
Clerk