

ORDER OF THE SUPREME COURT OF TEXAS

Misc. Docket No. 93- 0124

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

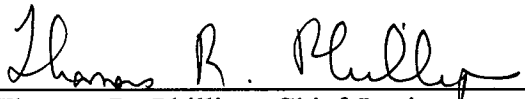
The Supreme Court of Texas hereby appoints the Honorable Bill Rhea, Judge of the 162nd District Court of Dallas County, Texas to preside in the Disciplinary Action styled:

The Commission on Lawyer Discipline v. Don E. Peavy, Sr.

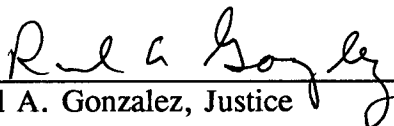
to be filed in a District Court of Tarrant County, Texas.

The Clerk of the Supreme Court shall promptly forward to the District Clerk of Tarrant 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 28th day of June, 1993.



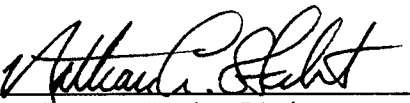
Thomas R. Phillips, Chief Justice



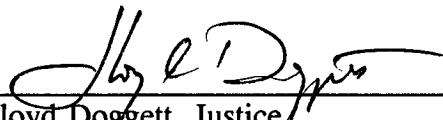
Raul A. Gonzalez, Justice

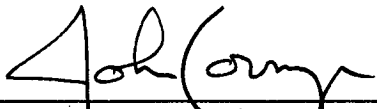


Jack Hightower, Justice

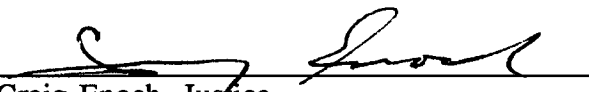


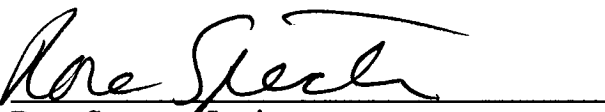
Nathan L. Hecht, Justice


Lloyd Doggett, Justice


John Cornyn, Justice


Bob Cammage, Justice


Craig Enoch, Justice


Rose Spector, Justice

NO. _____

COMMISSION FOR LAWYER DISCIPLINE	§	IN THE DISTRICT COURT OF
V.	§	TARRANT COUNTY, TEXAS
DON E. PEAVY SR.	§	_____ JUDICIAL DISTRICT

DISCIPLINARY PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

Petitioner, the Commission for Lawyer Discipline, a committee of the State Bar of Texas (hereinafter called "Petitioner"), complains of Respondent, Don E. Peavy Sr. (hereinafter called "Respondent"), showing the Court:

I.

Petitioner brings this disciplinary action pursuant to the State Bar Act, Texas Gov't. Code Ann. §81.001, et seq. (Vernon 1988), the Texas Rules of Professional Responsibility, 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 Tarrant County, Texas. An officer may serve citation on Respondent at his business address located at 4801 Brentwood Stair Road, Suite 405, Fort Worth, Tarrant County, Texas, 76103-1701.

III.

On or about November 16, 1992, Gerald Pruitt (hereinafter called "Pruitt"), a municipal court judge in Mansfield, Texas, notified Respondent of a trial setting in his court on or about

November 24, 1992 in Case Number 92-13,199, City of Mansfield v. Felicia Bassett. Such setting was a special setting pursuant to Respondent's previous request.

IV.

On or about November 23, 1992, Respondent asked for a continuance in the above-referenced case for the reason that he had purportedly just been notified of a conflicting trial setting in military court at Carswell Air Force Base. Respondent filed a First Motion for Continuance on or about November 24, 1992, in which he claimed that he was notified of the setting in military court late on the afternoon of November 23, 1992.

V.

When Pruitt questioned Respondent regarding the short notice of the setting in military court, Respondent admitted that he had been notified of the military court setting on or about November 19, 1992. However, upon checking with the military court clerk, Pruitt was informed that Respondent had requested the military court trial setting on or about October 23, 1992, and had been notified by the clerk of such setting as early as November 5, 1992. As such, the statements contained in Respondent's First Motion for Continuance in Case Number 92-13,199, City of Mansfield v. Felicia Bassett, were untrue.

VI.

Such acts and/or omissions on the part of Respondent as are described in Paragraphs III., IV., and V. hereinabove which occurred on or after January 1, 1990, constitute conduct violative of Rules 3.03(a)(1), 4.01(a) and/or 8.04(a)(3) of the Texas Disciplinary Rules of Professional Conduct.

VII.

The conduct which forms the basis of the complaint hereinabove set forth was brought to the attention of the office of the General Counsel of the State Bar of Texas by Gerald Pruitt's filing of a complaint on or about December 1, 1992.

PRAYER

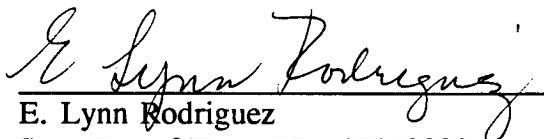
WHEREFORE, PREMISES CONSIDERED, Petitioner prays for judgment that Respondent be disciplined as the facts shall warrant; and that Petitioner have such other relief to which entitled, including costs of court and attorney's fees.

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
(512) 463-1381


E. Lynn Rodriguez
State Bar of Texas No. 17143880

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.
MARY ANN DEFIBAUGH

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

July 7, 1993

The Honorable Bill Rhea
162nd District Court
Dallas County Courthouse
600 Commerce Street
Dallas, Texas 75202

RE: COMMISSION FOR LAWYER DISCIPLINE v. DON E. PEAVY, SR..

Dear Judge Rhea,

We enclose for your information, a copy of the order of assignment, a copy of the Disciplinary Action, a copy of the notification letters to the State Bar General Counsel and respondent's attorney, as well as to the district clerk, in the referenced case.

Sincerely,

John T. Adams
Clerk

Encl.



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

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July 7, 1993

Hon. Thomas P. Hughes
District Clerk
Tarrant County Courthouse
401 West Belknap
Fort Worth, Texas 76196

RE: COMMISSION FOR LAWYER DISCIPLINE v. DON E. PEAVY, SR..

Dear Mr. Hughes,

Pursuant to Rule 3.03 of the Texas Rules of Disciplinary Procedure, I am sending for filing, the State Bar of Texas Disciplinary Action referenced above and a copy of the Supreme Court's order appointing a judge to preside in this action.

Sincerely,

John T. Adams
Clerk

Encl.

cc: Hon. Bill Rhea
Mr. Don E. Peavy, Sr.
Mr. James M. McCormack



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

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July 7, 1993

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

Mr. Don E. Peavy, Sr.
4801 Brentwood Stair Road, Ste. 405
Fort Worth, Texas 76103-1701

RE: COMMISSION FOR LAWYER DISCIPLINE v. DON E. PEAVY, SR..

Dear Mr. McCormack and Mr. Peavy,

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 Bill Rhea, 162nd District Court, Dallas County Courthouse, 600 Commerce Street, Dallas, Texas 75202, to preside in the above referenced action.

Copies of pertinent documents are enclosed for your use.

Sincerely,

John T. Adams
Clerk

Encl.

cc: Hon. Bill Rhea