

ORDER OF THE SUPREME COURT OF TEXAS

Misc Docket No. 98- 9028

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

The Supreme Court of Texas hereby appoints the Honorable Jerry L. Calhoun, Judge of the 349th District Court of Anderson County, Texas, to preside in the Disciplinary Action styled:


The Commission for Lawyer Discipline v. Vicente R. Velasquez

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.

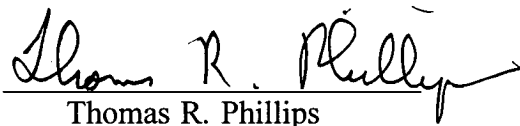
As ordered by the Supreme Court of Texas, in chambers,

with the Seal thereof affixed at the City
of Austin, this 11th day of February, 1998.


JOHN T. ADAMS, CLERK
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 98-9028, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code §74.057.

Signed this 12 day of February, 1998.

A handwritten signature in cursive script that reads "Thomas R. Phillips". The signature is written in black ink and is positioned above a horizontal line.

Thomas R. Phillips
Chief Justice

CAUSE NO. _____

COPY

COMMISSION FOR LAWYER DISCIPLINE §
v. §
VICENTE R. VELASQUEZ §
§

IN THE DISTRICT COURT OF
HARRIS COUNTY, TEXAS
_____ JUDICIAL DISTRICT

DISCIPLINARY PETITION

TO THE HONORABLE JUDGE OF THE COURT:

COMES NOW Petitioner, the Commission for Lawyer Discipline, a committee of the State Bar of Texas (hereinafter called "Petitioner"), complaining of Respondent, Vicente R. Velasquez (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 2318 Gray Falls Drive, Houston, Texas, 77077.

III.

Respondent commingled his personal funds with client funds in his trust account at MetroBank, N.A., Account Number 004234 (hereinafter called "trust account"). Thereafter, the following checks from Respondent's trust account were either made payable to "Cash" or issued to Respondent's ex-wife for child support payments, and/or for her share of the community property: 1) check number 3563, in the amount of \$3,500.00; 2) check number 3751, in the amount of \$3,500.00; 3) check number 3763, in the amount of \$3,000.00; 4) check number 3764, in the amount of \$3,500.00; 5) check number 3766, in the amount of \$2,500.00; 6) check number 3768, in the amount of \$3,500.00; 7) check number 3771, in the amount of \$3,500.00; and, 8) check number 3773, in the amount of \$3,500.00, even though Respondent's ex-wife was not entitled to the funds by virtue of representation or by law.

IV.

In addition, Respondent's ex-wife, a non-attorney, had signatory authority on Respondent's trust account. Check number 3773, was made payable to "Cash" for \$3,500.00, was signed by Respondent's ex-wife, as was check number 3794, for \$2,500.00.

V.

Respondent also made the following withdrawals from his trust account with his Automatic Teller Machine (hereinafter called "ATM") card: 1) on or about April 25, 1994, \$100.25, plus \$1.00 service charge; 2) on or about May 9, 1994, \$100.50, plus \$1.00 service charge; 3) on or about May 16, 1994, \$100.00, plus \$1.00 service charge; 4) on or about May 31, 1994, \$100.00, plus \$1.00 service charge; 5) on or about June 6, 1994, \$200.50, plus \$1.00 service charge; 6) on or about July 18, 1994, \$100.25, plus \$1.00 service charge; 7) on

or about July 20, 1994, \$200.25, plus \$1.00 service charge; 8) on or about July 28, 1994, \$100.25, plus \$1.00 service charge; 9) on or about August 8, 1994, \$100.00, plus \$1.00 service charge; 10) on or about August 17, 1994, \$150.25, plus \$1.00 service charge; 11) on or about August 25, 1994, \$100.25, plus \$1.00 service charge; 12) on or about August 29, 1994, \$100.25, plus \$1.00 service charge; 13) on or about September 2, 1994, \$100.25, plus \$1.00 service charge; 14) on or about September 6, 1994, \$100.25, plus \$1.00 service charge; 15) on or about September 8, 1994, \$100.25, plus \$1.00 service charge; 16) on or about September 13, 1994, \$100.50, plus \$1.00 service charge; 17) on or about September 19, 1994, \$200.25, plus \$1.00 service charge; 18) on or about September 21, 1994, \$100.50, plus \$1.00 service charge; 19) on or about September 23, 1994, \$100.50, plus \$1.00 service charge; 20) on or about October 4, 1994, \$60.50, plus \$1.00 service charge; and, 21) on or about November 22, 1994, \$100.50, plus \$1.00 service charge. Respondent was not entitled to withdraw the funds using an ATM card because by virtue of representation or by law, he was not entitled to the funds.

VI.

Further, Respondent failed to keep complete records of his trust account funds for the required five years after termination of representation.

VII.

The acts and/or omissions of the Respondent described in Paragraph(s) III-VI above, which occurred on or after January 1, 1990, constitute conduct in violation of Rules 1.14(a) [for failing to hold funds and other property belonging in whole or in part to clients or third persons in a lawyer's possession separate from the lawyer's own property in a separate

account designated as a "trust" or "escrow" account, and for failing to maintain complete records of the separate account for a period of five years after termination of representation] and 1.14(c) [for failing to keep funds or other property in which both the lawyer and another person claim interests separate until there is an accounting and severance of their interests] of the Texas Disciplinary Rules of Professional Conduct.

VIII.

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 L.T. Bradt's filing of a complaint on or about January 10, 1996.

Prayer


WHEREFORE, PREMISES CONSIDERED, Petitioner the Commission for Lawyer Discipline respectfully prays that this Court discipline Respondent Vicente R. Velasquez, 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 attorneys' fees.

Respectfully submitted,

Steven W. Young
General Counsel

Stephen D. Statham
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) 752-2158



STEPHEN D. STATHAM
State Bar No. 19082500

ATTORNEYS FOR THE COMMISSION
FOR LAWYER DISCIPLINE

STATE BAR OF TEXAS



Office of the General Counsel

January 2, 1998

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

Re: *Commission for Lawyer Discipline v. Vicente R. Velasquez*

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 Vicente R. Velasquez. Mr. Velasquez has designated Harris County, Texas, as his 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:

Vicente R. Velasquez
2318 Gray Falls Drive
Houston, Texas 77077.

As a practical matter, I would respectfully suggest that you inquire with the judge to be appointed as to: (1) 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; and (2) whether he or she can accommodate compliance with Mellon Service Co., et al v. Touche Ross Co., 946 S.W.2d 862 (Tex. App. - Houston [14th Dist.] 1997), which requires that all proceedings incident to a case occur in the county of proper venue. 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, the Civil Case Information Sheet, 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, service be obtained, and a file-marked copy of the petition be returned to the undersigned.

Mr. John Adams

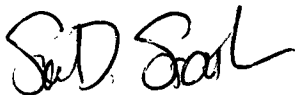
January 2, 1998

Page Two

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 file-marked copy of the Petition to the undersigned.

Thank you for your courtesies in this matter.

Sincerely,



Stephen D. Statham
Assistant General Counsel

SDS/sml
enclosures

J:\VELASQUE.VIN\CFLD2.SDS\ADAMS1.LTR



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

JUSTICES
RAUL A. GONZALEZ
NATHAN L. HECHT
CRAIG T. ENOCH
ROSE SPECTOR
PRISCILLA R. OWEN
JAMES A. BAKER
GREG ABBOTT
DEBORAH G. HANKINSON

CLERK
JOHN T. ADAMS

EXECUTIVE ASS'T
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

FEB 19 1998

The Honorable Charles Bacarisse
District Clerk of Harris County
P.O. Box 4651
Houston, Texas 77002

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. Vicente R. Velasquez, and a copy of the Supreme Court's order appointing the Honorable Jerry L. Calhoon, Judge of the 349th District Court of Palestine, Texas, to preside in this Disciplinary Action.

Sincerely,

SIGNED

John T. Adams
Clerk

cc: Honorable Jerry L. Calhoon
Mr. Stephen D. Statham
Mr. Vicente R. Velasquez



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

POST OFFICE BOX 12248 AUSTIN, TEXAS 78711

CLERK
JOHN T. ADAMS

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TEL: (512) 463-1312

FAX: (512) 463-1365

EXECUTIVE ASS'T
WILLIAM L. WILLIS

FEB 19 1998

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

Honorable Jerry L. Calhoon
Judge, 349th District Court
500 N. Church Street
Palestine, Texas 75801

Dear Judge Calhoon:

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. Velasquez and Mr. Statham, 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

JUSTICES
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NATHAN L. HECHT
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ROSE SPECTOR
PRISCILLA R. OWEN
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GREG ABBOTT
DEBORAH G. HANKINSON

EXECUTIVE ASS'T
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

FEB 19 1998

Mr. Stephen D. Statham
Assistant General Counsel, State Bar of Texas
1111 Fannin, Suite 1370
Houston, Texas 77002

Mr. Vicente R. Velasquez
2318 Gray Falls Drive
Houston, Texas 77077

Dear Mr. Statham and Mr. Velasquez:

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 Jerry L. Calhoon, Judge of the 349th District Court of Palestine, Texas to preside in

Commission for Lawyer Discipline v. Vicente R. Velasquez

Sincerely,

SIGNED

John T. Adams
Clerk