

**BEFORE THE BOARD OF DISCIPLINARY APPEALS
APPOINTED BY
THE SUPREME COURT OF TEXAS**

FILED



January 5, 2016

Board of Disciplinary Appeals

IN THE MATTER OF
MPATANISHI SYANALOLI
TAYARI GARRETT,
STATE BAR NO. 24073090

§
§ CAUSE NO. 56589
§
§

**RESPONDENT TAYARI GARRETT'S ORIGINAL ANSWER AND
AFFIRMATIVE DEFENSES**

I.

GENERAL DENIAL

Respondent Mpatanishi Syanaloli Tayari Garrett ("Respondent") denies each and every, all and singular, allegations to the Petition and demands strict proof thereof before the Board.

II.

AFFIRMATIVE DEFENSES

Respondent alleges the following defenses:

1. There was such an infirmity of proof establishing the alleged misconduct in Minnesota as to give rise to the clear conviction that the Board of Disciplinary Appeals, consistent with its duty, should not accept as final the conclusion on the evidence reached in the other jurisdiction. Specifically, there was no proof that Tayari Garrett willfully disobeyed a court mandate because the Minnesota tribunal simultaneously found that Tayari Garrett was involuntarily hospitalized on the day the Court ordered trial to begin. Further, there was no proof that Tayari Garrett made a false or misleading statement to a tribunal when she requested, and the court agreed, she appear by telephone for a subsequent hearing. Tayari Garrett was not asked her location during the telephone conference, and her failure to *voluntarily* disclose her location during the telephone conference is not sufficient evidence of a false or misleading statement. In

further support of this affirmative defense, Tayari Garrett submits and incorporates herein all the arguments and matters made in the attached Respondents Opening Brief to the Minnesota Supreme Court (Exh. A). Tayari Garrett further submits for consideration the attached full Transcript of her two-day proceeding before Minnesota Referee Paul Nelson, whom subsequently issued a Findings of Fact and Conclusions of Law and Recommendation for Discipline and Opinion (Exh. B).

2. The imposition by the Texas Board of Disciplinary Appeals of discipline identical with that imposed by Minnesota would result in grave injustice. As asserted in Respondents Opening Brief to the Minnesota Supreme Court (Exh. A), Tayari Garrett was targeted for extreme discipline and retaliation due, first, to her client's motion to recuse a prominent Minnesota judge related to the legendary Hubert Humphrey. Then representing a prominent attorney, Michelle MacDonald, in federal court after she was arrested, jailed, and forced to conduct a trial in handcuffs and strapped to a wheelchair after, similarly, seeking to recuse that judge for bias. After the first motion to recuse, the details of the motion made it to the local news and the judge subsequently resigned prior to the end of his term. Tayari Garrett was thereafter charged with criminal contempt of court and pursued by the Minnesota Board of Professional Responsibility. Weeks after Tayari Garrett filed Michelle MacDonald's federal case, and it was widely publicized in local and national media, Tayari Garrett was indefinitely suspended from the practice of law in Minnesota and specifically instructed to immediately withdraw from MacDonald's case. Respondent's Petition for Rehearing (Exh. C), further details the stark difference in how Tayari Garrett's case was addressed when compared to prior, similar, discipline cases before the Minnesota Supreme Court.

3. The misconduct allegedly established in Minnesota warrants substantially different discipline in Texas.

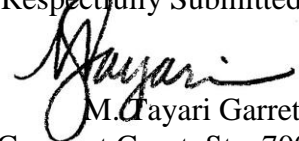
4. The alleged misconduct for which Tayari Garrett was disciplined in Minnesota does not constitute Professional Misconduct in Texas. Specifically, the Minnesota Rules concerning willful disobedience to a court mandate and conviction for willful disobedience to a court mandate does not appear to parallel any professional misconduct under the Texas rules. Next, it does not appear to be automatic professional misconduct for a lawyer to be convicted of a misdemeanor in Texas. Finally, there does not appear to be a parallel rule to Minnesota's 8.04(d), which makes it misconduct for a lawyer to "engage in conduct that is prejudicial to the administration of justice."

III.

PRAYER

Respondent Mpatanishi Syanaloli Tayari Garrett prays that, consistent with Rule 9.04, Texas Rules of Disciplinary Procedure, that upon trial of this matter that this Board enters a judgment declining to impose identical discipline to that alleged to have been imposed by the Supreme Court of the State of Minnesota, and that Respondent have such other and further relief to which she may be entitled.

Respectfully Submitted,



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