



BEFORE THE BOARD OF DISCIPLINARY APPEALS
Appointed By
THE SUPREME COURT OF TEXAS

CURTIS LILLY
State Bar of Texas Card No. 24030063

v.

**COMMISSION FOR
LAWYER DISCIPLINE OF THE
STATE BAR OF TEXAS**

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CAUSE NO. 64799

DISMISSAL ORDER

On this day came to be heard the Board of Disciplinary Appeals' own motion to dismiss the above-captioned appeal filed by Appellant Curtis Lilly for want of prosecution. After reviewing the papers filed in this matter, the Board finds that Appellant filed his notice of appeal on October 5, 2020. The clerk of the District 6 Grievance Committee of the State Bar of Texas filed the clerk's record with the Board on December 1, 2020. Pursuant to the BODA's Internal Procedural Rule 4.03, the reporter's record was due to be filed by January 1, 2021. However, the reporter's record was not filed by that deadline.

On May 18, 2021, BODA's Executive Director and General Counsel notified Appellant by letter that the reporter's record had not been timely filed and requested that Appellant ensure that the reporter's record be filed within thirty (30) days. The letter stated that if no reporter's record was filed by that time, the matter would be referred to the Board for further action, which could include dismissal of the appeal. Appellant did not respond, and the reporter's record was not filed by that deadline.

On July 6, 2021, the Board issued an order directing Appellant to respond and show cause within ten (10) days from the date of receipt of the order why his appeal should not be dismissed for want of prosecution. That order was sent by email and certified mail.

On July 19, 2021, Appellant filed a response to the Order to Show Cause, sending it by email from the same email address the Board has used to transmit orders issued in this case. The response states that Appellant had been unable to obtain the reporter's record, that Appellant had made numerous attempts to contact the court reporter without success, and that he was working on a brief that could not be completed without reviewing the transcript. The response contained a motion for a "60-day extension to get the reporter's record and provide the board a brief consistent with the rules."

On July 26, 2021, the Board issued an order directing Appellant to file a status report by August 5, 2021, by which time Appellant was to advise the Board of any and all arrangements he made with the court reporter for preparation of the reporter's record, including a date by which the court reporter committed to file the reporter's record. *See* BODA INTERNAL PROCEDURAL RULE 4.03(c). Appellee, the Commission for Lawyer Discipline, was directed to forward immediately to Appellant the name and contact information for the court reporter. The Board's order stated that "[f]ailure to file a timely status report as described above could result in dismissal of the appeal, affirmance of the judgment, disregarding late-filed materials, or application of presumptions against the appellant under BODA Internal Procedural Rule 4.03(a)."

On July 27, 2021, Appellee notified Appellant by email of the court reporter's name and contact information, as directed. Appellant has not filed a status report, as ordered by the Board. Appellant has never communicated to the Board that he contacted the referenced court reporter, requested preparation of the reporter's record, and paid the court reporter's fee or made satisfactory arrangements with the court reporter—actions that trigger the court reporter's responsibility to file

the reporter's record. *See* BODA INTERNAL PROCEDURAL RULE 4.03(c)(2)(i). Nor has Appellant notified the Board that he has been unable to contact the referenced court reporter or that the contact information provided by Appellee is incorrect. The court reporter has never notified the Board of inability to prepare and transmit the reporter's record by the deadline or provided an alternate date by which the reporter's record can be filed. *See* BODA INTERNAL PROCEDURAL RULE 4.02(c)(2)(ii). Appellant's motion for an extension of time to file the reporter's record is **DENIED**.

Neither the reporter's record nor the Appellant's brief has been filed. Until July 19, 2021, the Board had received no communication or filing from Appellant since he filed the notice of appeal on October 5, 2020. Until July 19, 2021, the Appellant had never requested an extension of time to file the reporter's record or the Appellant's brief. When Appellant did finally request an extra sixty (60) days, he did not provide an affidavit from the court reporter or any other support demonstrating that he had requested and paid for the record, or demonstrating his diligence in attempting to request the record. *See* BODA INTERNAL PROCEDURAL RULE 4.03(c). Appellant still has provided no support of diligence in requesting the record. The Board finds that Appellant's response to the Order to Show Cause fails to demonstrate good cause why this appeal should not be dismissed.

In accordance with Internal Procedural Rules 4.03(a) and 4.09 of the Board of Disciplinary Appeals, and on its own motion, the Board **ORDERS** that this appeal is hereby **DISMISSED** for want of prosecution, with prejudice to refiling.

SIGNED this 25th day of August 2021.

A handwritten signature in blue ink that reads "Tom G. Giles". The signature is written in a cursive, somewhat stylized font.

CHAIR PRESIDING