



FILED

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THE BOARD of DISCIPLINARY APPEALS
Appointed by the Supreme Court of Texas

BODA # 67514

IN THE BOARD OF DISCIPLINARY APPEALS

Curtis Lilly,

Appellant

vs.

Commission for Lawyer Discipline,

Appellee

On Appeal from the Chief Disciplinary Counsel

For the State Bar of Texas, Case No. 201905562

RESPONSE TO APPELLEE'S BRIEF

Attorney for Appellant

Curtis Lilly

Summary of Response to Appellee's Brief

FACTS

First, the order written by Judge O'Conner was based on the testimony of sycophants in his office. No one testified under oath or affidavit other than the Respondent "Lilly". The Petitioner's Brief does not explain that the underlying criminal case of "Sirovica" was transferred from the Eastern District of Texas to the Northern District of Texas without "Lilly" being notified even though he had been the attorney of record in the original case for more than 6 years. Lilly received a call about a detention hearing for Sirovica less than an hour before the hearing. Although Lilly was suffering from a severe cold, strip throat and a bad case of Gout, Lilly appeared on a cane, highly medicated and in immense pain. Lilly inquired of the clerk about his lack of notice of the transfer and the detention hearing, Lilly's email address was confirmed, and he was advised that an email would be sent, that is why the matter was not calendared. This is the reason for the confusion about emails, notices sent by the Northern District where not included in the "Outlook Rule" that was set up for the Sirovica case. The reason the notice email was so important is that "Lilly" was on a trial docket in Tarrant County District Court for the week of the hearing in the Northern District. Lilly was instructed to send the notice to the Tarrant County District Court so to take the case off the docket. Lilly was still suffering from flu like symptoms, could not speak and had been bedridden for more than a week on the day of the hearing. When Lilly did not see the email, he presumed the matter was being reset. Lilly was not aware that the matter had not been reset until the day of the hearing. Judge O'Conner's speculation and assertions are based on his implicit bias toward Lilly, not facts. If the Model Rules of the American Bar Association had been used in Judge O'Conner's Court, all

these matters could have been litigated rather than him making up facts and calling it an order. The Model Rules were designed to prevent wide variations and or bias in Lawyer Discipline. Although the

DISCOVERY SANCTIONS

Petitioners' response fails to consider that the matter was filed during COVID times. In other words, the Courts and Lilly's Law Office was closed. In fact, for a period of time, Lilly was prohibited from going to his office. During that time this matter was referred to two different panels and two different jurisdictions. For some reason, the Petitioner in this matter tried to serve Lilly at multiple different addresses in Houston, Dallas and Fort Worth. Petitioner's discovery request was never served upon the Respondent until after Petitioner filed a Motion to Compel. Apparently, the request for discovery was mailed to a Houston address, not Lilly's office or PO Box. The discovery requested was answered, however because of the size of the response, it could not be emailed. A jump drive was mailed to the Petitioner and was received by the Petitioner, however, the panel granted Petitioner's request. The panel abused its discretion in not allowing the Respondent to present the aforementioned evidence considering the circumstances and that the requested Discovery was delivered. Being sick should not be a basis for Sanctioning of Attorney under any circumstances.

The Texas Bar has made extraordinary provisions for individuals with drug and alcohol abuse issues, even though these are self-inflicted. Sanctioning Lilly for being sick with Strip Throat and Gout should be looked upon the same way. Sanctioning Lilly under these circumstances violates the American with Disabilities Act and strikes of cruelty not justice.

SIROVICA'S CASES

The Defendant in the Federal Criminal case suffered no harm. Normally, detention hearings are waived, but I requested the hearing because of the facts and state charges where pending. Based on the testimony of an officer involved in this matter, it was discovered that he lied in his probable cause affidavit. The Tarrant County District Attorney's Office dismissed the charges against Sirovica.

PRAYER

For all of these reasons, Appellant Curtis Lilly respectfully requests that the Board of Disciplinary Appeals reverse and remand the Evidentiary Panel's Default Judgment of Active Suspension and return this matter for further proceedings before the Evidentiary Panel, or in the alternative, that the Board of Disciplinary Appeals enter an order modifying the sanctions against Appellant, and grant such other and further relief at law or equity to which Appellant may be justly entitled. Appellant request Oral Arguments.

Respectfully submitted,

Curtis Lilly