

NO. 72285



FILED

May 26 2026

Before the Board of Disciplinary Appeals

Appointed by

The Supreme Court of Texas

CURTIS LILLY

STATE BAR OF TEXAS CARD NO. 24030063,

APPELLANT

V.

COMMISSION FOR LAWYER DISCIPLINE,

APPELLEE

On Appeal from an Evidentiary Panel

For the State Bar of Texas District 6

No. 202205839 [Doss]

**APPELLANT’S RESPONSE TO MOTION TO DISMISS FOR WANT OF
JURISDICTION**

TO THE HONORABLE BOARD OF DISCIPLINARY APPEALS:

I file this Response to address the Commission’s argument that my Motion for New Trial and Notice of Appeal were untimely. The Commission’s position ignores the undisputed fact that I was suffering from **severe medical disability** during the relevant deadlines, and that **TRDP Part XII** requires the Board to address disability before dismissing an appeal.

I. My Medical Disability Prevented Timely Filing

The Commission's brief treats the deadlines as if I were a healthy litigant capable of participating in my defense. I was not.

During the period from **September 22, 2025 through October 23, 2025**, I was:

- recovering from a **heart attack** suffered on July 10, 2025;
- experiencing complications from **failed stents**;
- undergoing continuous cardiac treatment;
- suffering severe chest pain, fatigue, and cognitive impairment;
- dealing with medication side effects that impaired concentration and stamina.

My treating physician confirms that I was **not medically capable of participating in legal proceedings**, preparing filings, or managing deadlines during this period.

My inability to file within 30 days was not neglect, delay, or strategy — it was **medical incapacity**.

II. TRDP Part XII Requires the Board to Address Disability Before Enforcing Deadlines

Under **TRDP Part XII**, a disability exists when a lawyer is:

- “unable to practice law,” or
- “unable to adequately participate in the defense of a disciplinary proceeding.”

That is precisely my situation.

Part XII is not optional. It is a mandatory procedural safeguard designed to prevent exactly what the Commission seeks here the enforcement of disciplinary deadlines against a lawyer who is **physically unable to defend himself**.

Before the Board can dismiss an appeal for lack of jurisdiction, it must determine whether a disability existed that prevented compliance with the deadlines.

III. Due Process Prohibits Enforcing Deadlines Against a Medically Incapacitated Respondent

Enforcing a jurisdictional deadline against a party who is medically incapable of acting violates fundamental due process.

The Commission's position would:

- deny me meaningful participation in my own defense;
- deprive me of appellate review;
- convert medical disability into procedural default;
- effectively impose disbarment without due process.

Texas courts have repeatedly held that deadlines cannot be enforced when a party is physically unable to comply. The same principle applies here.

IV. Equity and Fairness Require Tolling or Disability Relief

My filings were late **because I was medically incapacitated**, not because I ignored the rules.

Equitable tolling is appropriate where:

- the litigant was prevented from acting by circumstances beyond their control;
- the delay was caused by medical incapacity;
- the opposing party is not prejudiced;
- the interests of justice favor allowing the case to proceed.

All four factors are met.

Alternatively, the Board may grant a **disability suspension** under TRDP Part XII, which would stay all deadlines until I am medically able to participate.

V. Prayer

For these reasons, I respectfully request that the Board:

1. **Reject the Commission's jurisdictional argument;**
2. **Find that I was medically disabled during the relevant deadlines;**
3. **Apply TRDP Part XII** and grant a disability suspension;
4. **Alternatively**, equitably toll all deadlines during the period of disability; and
5. Grant any other relief to which I am entitled.

Respectfully submitted,

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