

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



F I L E D

Apr 29 2022

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

IN THE MATTER OF

DEREK ALFONSO QUINATA

STATE BAR CARD NO. 24072292

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CAUSE NO. 66219

RESPONSE IN OPPOSITION TO RESPONDENT’S MOTION FOR CONTINUANCE

NOW COMES the Petitioner, COMMISSION FOR LAWYER DISCIPLINE, and files this, Response in Opposition to Respondent’s Motion for Continuance, and asks the Board of Disciplinary Appeals to DENY Respondent’s motion.

I. INTRODUCTION

Petitioner file a Motion to Revoke Probation that was ordered in several judgments against Respondent, Derek Alfonso Quinata, pursuant to Rule 2.22 of the Texas Rules of Disciplinary Procedure and Section 5 of the Board of Disciplinary Appeals’ Internal Procedural Rules. Three of the probated suspensions Petitioner seeks to revoke end on June 14, 2022, and the other probated suspension ends on September 19, 2022.

II. BACKGROUND

Petitioner, Commission for Lawyer Discipline, filed a Petition for Revocation of Probation and Notice of Hearing with the Board of Disciplinary Appeals (“BODA” or “Board”) on December 28, 2021. Thereafter, on no less that fourteen (14) occasions, a private process server and an El Paso Deputy Sheriff attempted to serve Respondent.¹ Although multiple messages were left, Respondent failed to respond to the messages or to make himself available for service. Pursuant to an Order of this Board, Respondent was finally served on April 14, 2022, when a Deputy Sheriff served Respondent’s mother, Sylvia Quinata.

¹ On or about February 14, 2022, an attorney in the San Antonio office told Respondent that we were attempting to serve him with a Motion to Revoke. For this reason, Petitioner believes that Respondent intentionally attempted to avoid service. *Exhibit 4.*

On April 18, 2022, Respondent was served with Notice of this hearing. *Exhibit 1*. It was not until April 28, two weeks after receiving notice of this hearing and less than twenty-four (24) hours before the scheduled hearing, that Respondent contacted anyone regarding the setting. His Motion for Continuance was filed at approximately 5:43 p.m. on April 28, 2022, and is woefully inadequate. Contrary to his Certificate of Service, Respondent did not serve a copy of his motion on Petitioner. Petitioner received the Respondent's motion at 6:38 p.m. on April 28, 2022.

III. ARGUMENT AND AUTHORITIES

A. Motion not Verified or Supported by an Affidavit

A court should deny a motion for continuance when the motion is not verified or supported by an affidavit or when the affidavit is defective. *See* Tex. R. Civ. P. 251; *Villegas v. Carter*, 711 S.W.2d 624, 626 (Tex. 1986); *Taherzadeh v. Ghaleh-Assadi*, 108 S.W.3d 927, 928 (Tex. App.—Dallas 2003, pet. Denied); *Hawthorne v. Guenther*, 917 S.W.2d 924, 929 (Tex. App.—Beaumont 1996, writ denied). The Board should DENY Respondent's motion for continuance because the motion was not verified or supported by an affidavit. *Exhibit 2*.

B. Party Unavailable

A court should not continue a hearing when a party or witness is unavailable to testify unless the party requesting the continuance 1) provides the name and residence of the person testifying, 2) describes the testimony needed, 3) explains how the testimony is material and that proceeding without the testimony will prejudice the party requesting the continuance, 4) explains why the person is not available to testify, 5) shows that due diligence was used to obtain the testimony, 6) explains why the testimony was not obtained earlier, and 7) states that the continuance is not sought for delay but so that justice may be done. *See* Tex. R. Civ. P. 252; *Richards v. Schion*, 969 S.W.2d 131, 132-33 (Tex. App.—Houston [1st Dist.] 1998, no pet.); *Hawthorne v. Guenther*, 917 S.W.2d 924, 929-30 (Tex. App.—Beaumont 1996, writ denied); *Humphrey v. Ahlschlager*, 778 S.W.2d 480, 483-84 (Tex. App.—Dallas 1989, no writ); *Echols v. Brewer*, 524 S.W.2d 731, 734 (Tex. App.—Houston [14th Dist.] 1975, no writ). However, Respondent makes no assertion in his motion that he is unavailable for the hearing scheduled for April 29, 2022. *Exhibit 2*. Therefore, his motion should be DENIED.

C. Attorney Unavailable

A court should not continue a case when a party's attorney is unavailable for a hearing or trial unless the motion for continuance shows proof of good cause. Tex. R. Civ. P. 253. To establish good cause, the party seeking the continuance should 1) state that the attorney's presence is necessary for the proper representation of the case and explain why, 2) state the reasons for the attorney's unavailability, 3) if another attorney is available, explain why that attorney cannot handle the matter, and 4) state that the continuance is not sought for delay but so that justice may be done. *See Rehab. Facility at Austin, Inc. v. Cooper*, 962 S.W.2d 151, 155-56 (Tex. App.—Austin 1998, no pet.); *Rabe v. Guar. Nat'l Ins. Co.*, 787 S.W.2d 575, 579 (Tex. App.—Houston [1st Dist.] 1990, writ denied). Respondent is *pro se* in this proceeding and must, therefore, meet all the elements of an unavailable attorney to support his motion for continuance. He has not done so. In fact, he has not even asserted that he is unavailable. He states that he has a trial four days after the hearing but does not provide the style of the case or the court in which the case is pending. *Exhibit 2*. Therefore, Petitioner cannot verify whether Respondent is being truthful.

D. Notice of Hearing

Respondent asserts that he only became aware of the hearing on April 28, 2022. However, the Notice of Hearing was sent on April 18, 2022, and it is unlikely that Respondent did not check his email for two weeks. The email was sent to the email address on file with the State Bar of Texas and the one from which he sent emails to this Board. *Exhibit 2*. Rule 21 of the Texas Rules of Civil Procedure requires only a three (3) day notice for a hearing on a motion. Tex. R. Civ. P. 21(b). Here, Respondent had a ten-day notice of this hearing. Further, in the email he sent at 6:19 p.m. on April 28, 2022, Respondent falsely asserts that he “attempted to call the Commission.” *Exhibit 3*. Petitioner's attorney's contact information was on the petition. Petitioner's counsel received no telephone call, voice message or email from Respondent at any time prior to or after Respondent's email on April 28. Because Respondent received sufficient notice of this hearing, his Motion for Continuance should be DENIED.

E. Party not Represented

Absence of counsel will not be good cause for a continuance, except at the discretion of the court, upon good cause shown or upon matters within the knowledge or information of the judge to be stated on the record. Tex. R. Civ. P. 253. Respondent states that he “is request (sic) time to retain counsel for [the] hearing.” When the ground for a continuance is lack of counsel, movants must show that the failure to be represented at trial was not due to their own fault or negligence. *See Villegas v. Carter*, 711 S.W.2d 624, 626 (Tex. 1986); *State v. Crank*, 666 S.W.2d 91, 94 (Tex. 1984). This Board should deny the motion for continuance because Respondent’s lack of representation is a result of his own fault or negligence. As previously stated, Respondent has known since at least February 14, 2022, that Petitioner was attempting to serve him with a Motion to Revoke Probation. *Exhibit 4*. Yet, rather than accept service and/or obtain counsel in February, Respondent waited almost three months and then claimed that he needs time to retain counsel. Additionally, Respondent was served with the Petition on April 14, 2022, and with Notice of this hearing on April 18, 2022. He had approximately two weeks to attempt to obtain counsel. In his motion he does not state what efforts he has made to obtain counsel. Therefore, it is Respondent’s own fault he did not obtain counsel and this Board should DENY his Motion for Continuance.

F. Delay

Although Respondent claims that the continuance is not sought for delay, that is exactly what he is attempting to accomplish. Respondent has attempted to avoid service of this motion from January 6, 2022, when Armando Juarez, a private process server left his contact information for Respondent with Respondent’s mother. *Exhibit 5*. The numerous times process servers and an El Paso Deputy Sheriff left messages and contact information for Respondent and that Respondent failed and refused to respond to clearly indicate Respondent’s intention to ignore these proceedings in an attempt to delay them. *Exhibits 5, 6, and 7*. His motion for continuance is just one more attempt to delay this matter. Further, justice will not be served if this hearing is delayed further. Respondent has demonstrated contempt for the disciplinary judgments entered against him and failed and refused to comply with the judgments. Further delay could result in this Board losing jurisdiction over three of the judgments because Respondent’s probation in those cases end on June 17, 2022. Because

Respondent has submitted this motion for continuance for the purposes of delay, the Board should DENY the motion.

IV. CONCLUSION

The Court should DENY Respondent's motion for continuance for the following reasons:

1. The motion is not verified or supported by an affidavit;
2. The motion does not assert that Respondent, as a party, is unavailable;
3. The motion does not state that Respondent, appearing *pro se*, is unavailable;
4. Respondent had more than sufficient notice of this hearing;
5. It is due to Respondent's own fault or negligence that he does not have counsel to represent him; and
6. Respondent's motion was filed to delay these proceedings.

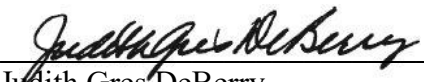
V. PRAYER

For the reasons stated above, Petitioner respectfully asks the Board to DENY Respondent's Motion for Continuance.

Respectfully submitted,

Seana Willing
Chief Disciplinary Counsel

Judith Gres DeBerry
Assistant Disciplinary Counsel
Office of the Chief Disciplinary Counsel
State Bar of Texas
P.O. Box 12487
Austin, Texas 78711
Telephone: 512.427.1350
Fax: 512.427.4167
Email: jdeberry@texasbar.com



Judith Gres DeBerry
State Bar No. 24040780

ATTORNEYS FOR PETITIONER

CERTIFICATE OF SERVICE

I hereby certify that on April 29, 2022, a copy of Petitioner's Response in Opposition to Respondent's Motion for Continuance was served on Respondent, Derek Alfonso Quinata, in compliance with Rule 21(a)(2) of the Texas Rules of Civil Procedure by electronic mail to:

Derek Alfonso Quinata at quinata_d@yahoo.com.



Judith Gres DeBerry

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

IN THE MATTER OF

DEREK ALFONSO QUINATA

STATE BAR CARD NO. 24072292

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CAUSE NO. 66219

ORDER ON RESPONDENT'S MOTION FOR CONTINUANCE

After considering Respondent's Motion for Continuance and Petitioner's Response in Opposition, the Board of Disciplinary Appeals finds that Respondent's motion lacks merit.

IT IS, THEREFORE, ORDERED that Respondent's Motion for Continuance is DENIED.

SIGNED this the ____ day of April, 2022.

CHAIR PRESIDING

From: [TXBODA Filing](#)
To: [Tanya Galinger](#); [Judith DeBerry](#); [quinata_d@yahoo.com](#)
Cc: [Jenny Hodgkins](#); [Matthew Greer](#)
Subject: Notice of hearing - In the Matter of Derek Alfonso Quinata - BODA No. 66219
Date: Monday, April 18, 2022 3:18:03 PM
Attachments: [Notice of hearing - Quinata.pdf](#)

All,

Please find attached a notice of hearing in the above styled matter.

This matter is set for hearing before the Board on Friday, April 29, 2022 at 9:00 a.m. in the courtroom of the Supreme Court of Texas, Austin, Texas. The hearing location and format (in-person vs. virtual) are subject to change based on conditions related to the COVID-19 pandemic. The Board of Disciplinary Appeals will notify the parties of any changes to the hearing location or format.

The Board requests that the parties kindly acknowledge receipt.

Thank you,

Matthew J. Greer
Deputy Director / Counsel
The Board of Disciplinary Appeals
P.O. Box 12426
Austin, TX 78711
Phone: (512) 427.1578
Fax: (512) 427.4130





F I L E D

Apr 28 2022

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

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

**IN THE MATTER OF
DEREK ALFONSO QUINATA
State Bar Card No. 24072292**

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CAUSE NO. 66219

MOTION FOR AN EXTENSION / CONTINUANCE

TO THE BOARD OF DISCIPLINARY APPEALS:

COMES NOW the Respondent, Pro Se, in the above styled and numbered cause and files this Motion for Extension/Continuance and in support thereof would show the Court as follows:

I.

The Respondent in this case is set for a hearing on the 29th of April 2022.

II.

GROUND FOR MOTION:

1. Respondent just recently became notified of this hearing, via email as of today.
2. Respondent is request time to retain counsel for this hearing.
3. Respondent is scheduled for a Murder trial on the 2nd day of May, 2022.
4. This is Respondent's first motion for continuance.
5. This motion is not made for delay.

WHEREFORE, PREMISES CONSIDERED, the Respondent prays that this Motion for Continuance be granted.

EXHIBIT

2

Respectfully Submitted,

/s/ Derek A. Quinata

Derek A. Quinata

ProSe, Respondent

Bar No. 24072292

812 Willow

El Paso, TX 79901

Tel: 915.667.6966

Fax: 915.242.0700

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing Motion for Continuance was on this date emailed on this day and that the Texas rules of Civil Procedure are in compliance.

/s/ Derek A. Quinata

DEREK A. QUINATA, Pro Se Respondent

From: [Quinata Derek](#)
To: [TXBODA Filing](#)
Cc: [Judith DeBerry](#); [Tanya Galinger](#); [Jenny Hodgkins](#); [Matthew Greer](#)
Subject: Re: Request for a Continuance/Extension (Case # 66219)
Date: Thursday, April 28, 2022 6:19:01 PM

In response, to question of, as to weather the Commission is unopposed.

I do not have a response as to that. I attempted to call the Commission, as soon as I found out about the hearing.

Respectfully,

Derek Quinata

Derek A. Quinata Attorney at Law CONFIDENTIALITY NOTICE: The documents in or accompanying this electronic mail transmission contain confidential information which is legally privileged. The information is intended only for the use of the recipient named above. If you have received this transmission in error, no privilege is intended to be waived. Please immediately notify us by telephone (915)667-6966 to arrange for return of the original document to us. You are hereby notified that any disclosure, copying, distribution or the taking of any action by relying on the contents of this e-mail transmission information is strictly prohibited.

On Thursday, April 28, 2022, 04:47:01 PM MDT, TXBODA Filing <filing@txboda.org> wrote:

Is the Commission opposed to the Motion for Continuance?

Thanks,

Jackie Truitt

Executive Assistant

Board of Disciplinary Appeals

PO Box 12426

Austin, TX 78711

512-427-1578

www.txboda.org



From: TXBODA Filing
Sent: Thursday, April 28, 2022 5:43 PM
To: Quinata Derek <quinata_d@yahoo.com>
Cc: Judith DeBerry <Judith.DeBerry@TEXASBAR.COM>; Tanya Galinger <Tanya.Galinger@TEXASBAR.COM>; Jenny Hodgkins <Jenny.Hodgkins@TEXASBAR.COM>; Matthew Greer <Matthew.Greer@TEXASBAR.COM>
Subject: RE: Request for a Continuance/Extension (Case # 66219)

File stamped copy is attached.

Jackie Truitt
Executive Assistant
Board of Disciplinary Appeals
PO Box 12426
Austin, TX 78711
512-427-1578
www.txboda.org

From: Quinata Derek <quinata_d@yahoo.com>
Sent: Thursday, April 28, 2022 5:41 PM
To: TXBODA Filing <filing@txboda.org>
Subject: Request for a Continuance/Extension (Case # 66219)

good Afternoon,

Attached is my Motion for Continuance.. I had called and a message on your voicemail earlier today, conveying my request,

Respectfully,

Derek Q

Derek A. Quinata Attorney at Law CONFIDENTIALITY NOTICE: The documents in or accompanying this electronic mail transmission contain confidential information which is legally privileged. The information is intended only for the use of the recipient named above. If you have received this transmission in error, no privilege is intended to be waived. Please immediately notify us by telephone (915)667-6966 to arrange for return of the original document to us. You are hereby notified that any disclosure, copying, distribution or the taking of any action by relying on the contents of this e-mail transmission information is strictly prohibited.

From: [George Smith](#)
To: [Judith DeBerry](#)
Subject: RE: Quinata
Date: Monday, February 14, 2022 7:58:58 AM

Sorry Judith, I told him what was happening and that he needed to obtain the Petition. I hope I didn't mess anything up.

From: Judith DeBerry <Judith.DeBerry@TEXASBAR.COM>
Sent: Friday, February 11, 2022 8:30 PM
To: George Smith <George.Smith@Texasbar.com>
Subject: RE: Quinata

I think it's better that he NOT know that we're trying to revoke his probation since **he's avoiding service**. The process server has Quinata's number and has left his and Quinata has not called the process server.

From: George Smith <George.Smith@Texasbar.com>
Sent: Friday, February 11, 2022 6:13 PM
To: Judith DeBerry <Judith.DeBerry@TEXASBAR.COM>
Subject: Re: Quinata

If you want to, I can give the number of the process server to him so they can coordinate a time to meet up. Of course after saying that he will once again fall off the face of the earth.

From: Judith DeBerry <Judith.DeBerry@TEXASBAR.COM>
Sent: Friday, February 11, 2022 5:11 PM
To: George Smith <George.Smith@Texasbar.com>
Subject: RE: Quinata

We know it's good but he's avoiding service – or his mother is covering for him.

From: George Smith <George.Smith@Texasbar.com>
Sent: Friday, February 11, 2022 5:04 PM
To: Judith DeBerry <Judith.DeBerry@TEXASBAR.COM>
Subject: Quinata

I just got done speaking with Mr. Quinata, he said the 4745 Rutherford Drive address is still good



BEFORE THE SUPREME COURT OF
TEXAS BOARD OF DISCIPLINARY APPEALS

CAUSE NO: 66219

IN THE MATTER OF DEREK ALFONSO QUINATA
STATE BAR CARD NO. 24072292

RETURN

Came to my hand: 01-05-2022, at 12:30 o'clock P.M., the following specified documents:

- Documents

and executed by me on NOT EXECUTED at _____ o'clock, _____, at, _____ within the county of _____, by delivering to DEREK ALFONSO QUINATA, in person, a true copy of the above specified documents having first endorsed on such copy the date of delivery.

Not Executed: Attempted to deliver at 4745 Rutherford Dr. El Paso, TX 79924 on 01/06/22 @ 08:05 a.m. - Spoke with individual's mother who stated that her son was not home. Left contact info. Attempted to deliver at 4745 Rutherford Dr. El Paso, TX 79924 on 01/17/22 @ 07:34 p.m. - There was no answer at the door, left contact info posted to the door.

Attempted to deliver at 812 Willow Street El Paso, TX 79903 on 01/07/22 @ 09:04 a.m. - This is the Huerta Law Firm, I spoke with Mr. Huerta who stated that the individual was not in the office. Left contact info.

Attempted to deliver at 12347 Kit Carson Dr. El Paso, TX 79936 on 01/15/22 @ 02:03 p.m. - Bad address per soon to be ex-wife who stated the individual no longer lives at this address.

I am over the age of 18, not a party to nor interested in the outcome of the above numbered suit, and I declare under penalty of perjury that the foregoing is true and correct.

By: (print name) ARMANDO JUAREZ

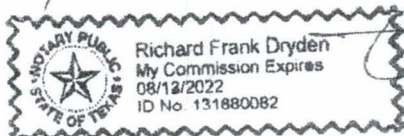
PSC: 4729 EXP DATE: 02-28-2022

ASSURED CIVIL PROCESS AGENCY
5926 Balcones Dr. Ste. 290, Austin, TX 78731

STATE OF TEXAS }

VERIFICATION

Before me, a notary public, on this day personally appeared the above named Authorized person, known to me to be the person whose name is subscribed to the foregoing document and, being by me first duly sworn, declared that the statements and facts therein contained are within his personal knowledge and experience to be true and correct. Given under my hand and seal of office on this the 15th day of February, 2022



Richard Frank Dryden
Notary Public

EXHIBIT

5

BEFORE THE SUPREME COURT OF
TEXAS BOARD OF DISCIPLINARY APPEALS

CAUSE NO: 66219

IN THE MATTER OF DEREK ALFONSO QUINATA
STATE BAR CARD NO. 24072292

RETURN

Came to my hand: 02-01-2022, at 03:04 o'clock P.M., the following specified documents:

- Documents

and executed by me on NOT EXECUTED, at _____ o'clock, _____, at _____ within the county of _____, by delivering to DEREK ALFONSO QUINATA, in person, a true copy of the above specified documents having first endorsed on such copy the date of delivery.

Not Executed: Attempted to deliver at 812 Willow Street El Paso, TX 79903 on 01/26/22 @ 11:00 a.m. - Spoke with the receptionist who stated the individual was not in the office. Left contact info.

Attempted to deliver at 4725 Rutherford Drive El Paso, TX 79924 on 01/29/22 @ 10:03 a.m. - Spoke with the individual's mother who stated that he was not home. I left contact info with her.

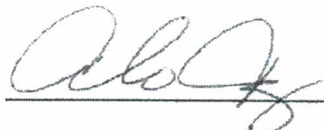
Attempted to deliver at 4725 Rutherford Drive El Paso, TX 79924 on 02/01/22 @ 08:15 p.m. - There was no response at the door, no vehicles visible in the drive and CAD shows a property leasing agency owns the property.

Called the number provided 915-256-1766 and there was no answer and I was unable to leave a message as it said the mailbox was full. Received a text message back from the individual saying he was in a hearing and to have them send their info so they could get back to the server. I sent my name and telephone number, but have never received any response and he is no longer answering his phone.

Attempted to deliver at 4725 Rutherford Drive El Paso, TX 79924 on 2/17/22 @ 07:34 p.m. - There was no response at the door.

Attempted to deliver at 812 Willow Street El Paso, TX 79903 on 2/18/22 - Spoke to the receptionist and was told he was not in the office.

I am over the age of 18, not a party to nor interested in the outcome of the above numbered suit, and I declare under penalty of perjury that the foregoing is true and correct.



By: (print name) ARMANDO JUAREZ PSC: 4729 EXP:
02/29/24 02/28/2024
ASSURED CIVIL PROCESS AGENCY
5926 Balcones Dr. Ste. 290, Austin, TX 78731

STATE OF TEXAS }

EXHIBIT

6

VERIFICATION

Before me, a notary public, on this day personally appeared the above named Authorized person, known to me to be the person whose name is subscribed to the foregoing document and, being by me first duly sworn, declared that the statements and facts therein contained are within his personal knowledge and experience to be true and correct. Given under my hand and seal of office on this the 3rd day of March 2022


Notary Public



AFFIDAVIT

THE STATE OF TEXAS

COUNTY OF El Paso

BEFORE ME, the undersigned authority, on this day personally appeared Deputy David T. Carroll #2651, who, being by me duly sworn, deposed as follows:

"My name is David T. Carroll. I am employed by El Paso County as a Deputy Sheriff. I am over the age of 18 years, of sound mind, capable of making this affidavit, and state the following:

I have no interest pecuniary or otherwise in Cause No. 66219, styled *In the Matter of Derek Alfonso Quinata, State Bar Card No. 24072292*; Before the Supreme Court of Texas Board of Disciplinary Appeals.

The following documents came to hand for service on 07 March, 2022, 2022, at 10:08 o'clock a. m.: A letter dated January 25, 2022, addressed to Jenny Hodgkins and a document entitled First Amended Petition for Revocation of Probation.

On _____, 2022, at _____ o'clock _____ m., I delivered in hand to a person known to me to be Derek Alfonso Quinata at _____

(full address, city, state and zip code), a letter dated January 25, 2022, addressed to Jenny Hodgkins and a document entitled Petition for Revocation of Probation with Notice of Hearing, true and correct copies of which are attached hereto."

unable to locate Derek Alfonso Quinata

**Returned Unserved
see diligence sheet**

FURTHER Affiant saith not.

**Returned Unserved
see diligence sheet**

**Richard D. Wiles Sheriff
El Paso County, Texas**

(Signature)

[Signature]

MAR 17 2022

Deputy David Carroll #2651

(Printed Name)

SWORN AND SUBSCRIBED before me on the 17 day of March, 2022.

(stamp or seal)



[Signature]
NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

EXHIBIT

7

EL PASO COUNTY SHERIFF'S OFFICE, TEXAS
CIVIL PROCESS SECTION
AFFIDAVIT OF ATTEMPTED SERVICE

Service For: Before the Board of Disciplinary Appeals, Appointed by the Supreme Court of Texas
(Received at the El Paso County, Texas Sheriff's Office on 07 March, 2022 at 10:08 a.m.; Sheriff's Office Filing #2022-SO-02133)

Case/Cause Number: 66219

Citation/Petition Issue Date: 25 January, 2022

Petitioner/Plaintiff: The Board of Disciplinary Appeals; Supreme Court of Texas
V.s.

Respondent/Defendant: Derek Alfonso Quinata

I, David T. Carroll (Deputy Sheriff, El Paso County, Texas), being first duly sworn on oath, depose and say: That I am now and at all times mentioned as a citizen and resident of the United States, and of El Paso County, Texas. That I am over the age of twenty-one years of age, and that service on Derek Alfonso Quinata, was attempted as indicated, in this above listed matter:

- 03/07/2022 10:08 a.m. – Received the Foreign Citation for the person to serve (Derek Alfonso Quinata) at listed address #1 (4745 Rutherford Dr, El Paso, TX 79924) and listed address #2 (812 Willow St, El Paso, TX 79903) (J. Ortega)
- 03/08/2022 8:05 a.m. – Attempted service at listed address #1, but no answer. No vehicles at the residence. Left a business card on the front door (D. Luera)
- 03/08/2022 2:07 p.m. – Attempted service at listed address #2. Per Jeanette at address #2, Derek Alfonso Quinata isn't in. Attempted to call listed phone number (915-667-6966), and spoke with Sylvia (mother of Derek Alfonso Quinata). She advised that Derek Alfonso Quinata wasn't home (D. Carroll)
- 03/08/2022 5:14 p.m. – Attempted service at address #1. Sylvia (mother) advised that Derek Alfonso Quinata isn't in, and doesn't know what time he would be home. She advised that he does reside at listed address #1. Left a business card (D. Carroll)
- 03/09/2022 7:30 a.m. – Attempted service at address #1, but no answer. No vehicles in the driveway. Via phone call to listed phone number, Sylvia advised that Derek Alfonso Quinata stays at listed address #1 a lot (D. Luera)
- 03/09/2022 3:15 p.m. – At address #1, Sylvia advised that Derek Alfonso Quinata wasn't there (D. Carroll)
- 03/09/2022 4:00 p.m. – At address #2, Jeanette advised that Derek Alfonso Quinata wasn't there, and that she advised him on the business card left there (D. Carroll)
- 03/11/2022 9:40 a.m. – Per Jonathan Huerta, Derek Alfonso Quinata is no longer employed there. Attempted to call listed phone number, but no answer. Request a better location of Derek Alfonso Quinata (D. Luera)
- 03/14/2022 10:33 a.m. – Left a voicemail for Tanya Galinger, requesting a better location of Derek Alfonso Quinata (J. Ortega)
- 03/14/2022 8:44 a.m. – Spoke with Tanya. Advised that she will call back with information (J. Ortega)
- 03/17/2022 10:13 a.m. – Tanya advised to return documents unserved, with Affidavit of attempted service (J. Ortega)

RICHARD WILES, Sheriff
El Paso County, Texas

By: David T. Carroll
David T. Carroll #2651
Deputy, El Paso County, Texas

MAR 17 2022

FEE: \$110.00

Subscribed and sworn before me this 17 day of March, 2022
Seal:

[Signature]
Notary Public in and for the State of Texas, residing in El Paso County, Texas

My Commission Expires: 10-29-2024



**AFFIDAVIT IN SUPPORT OF SUBSTITUTED SERVICE
STATE OF TEXAS, COUNTY OF EL PASO**

Service For: Before the Board of Disciplinary Appeals, Appointed by the Supreme Court of Texas
(Received at the El Paso County, Texas Sheriff's Office on 07 March, 2022 at 10:08 a.m.; Sheriff's Office Filing #2022-SO-02133)

Case/Cause Number: 66219

Citation/Petition Issue Date: 25 January, 2022

Petitioner/Plaintiff: The Board of Disciplinary Appeals; Supreme Court of Texas

V.s.

Respondent/Defendant: Derek Alfonso Quinata

My name is David T. Carroll#2651, and I am a Deputy Sheriff with the El Paso County, Texas, Sheriff's Office (EPCSO). I am not a party, nor am I interested in the outcome of this suit. The EPCSO's civil case files reflect that SERVICE was attempted on the above cause number and named Respondent/Defendant (Derek Alfonso Quinata). The attempted service METHOD used was by delivering in person, to the Respondent/Defendant, in hand, with a true copy of the Citation and a copy of the Petition at the defendant's USUAL PLACE OF ABODE or USUAL PLACE OF BUSINESS or another place in El Paso County where the defendant could have probably been found.

The following are the FACTS of the ATTEMPTED SERVICE on this Respondent/Defendant (Derek Alfonso Quinata), at the following location within El Paso County, Texas: Listed Address #1 – 4745 Rutherford Dr, El Paso, El Paso County, Texas 79924; and Listed Address #2 – 812 Willow St, El Paso, El Paso County, Texas 79903:

- 03/07/2022 10:08 a.m. – Received the Foreign Citation for the person to serve (Derek Alfonso Quinata) at listed address #1 (4745 Rutherford Dr, El Paso, TX 79924) and listed address #2 (812 Willow St, El Paso, TX 79903) (J. Ortega)
- 03/08/2022 8:05 a.m. – Attempted service at listed address #1, but no answer. No vehicles at the residence. Left a business card on the front door (D. Luera)
- 03/08/2022 2:07 p.m. – Attempted service at listed address #2. Per Jeanette at address #2, Derek Alfonso Quinata isn't in. Attempted to call listed phone number (915-667-6966), and spoke with Sylvia (mother of Derek Alfonso Quinata). She advised that Derek Alfonso Quinata wasn't home (D. Carroll)
- 03/08/2022 5:14 p.m. – Attempted service at address #1. Sylvia (mother) advised that Derek Alfonso Quinata isn't in, and doesn't know what time he would be home. She advised that he does reside at listed address #1. Left a business card (D. Carroll)
- 03/09/2022 7:30 a.m. – Attempted service at address #1, but no answer. No vehicles in the driveway. Via phone call to listed phone number, Sylvia advised that Derek Alfonso Quinata stays at listed address #1 a lot (D. Luera)
- 03/09/2022 3:15 p.m. – At address #1, Sylvia advised that Derek Alfonso Quinata wasn't there (D. Carroll)
- 03/09/2022 4:00 p.m. – At address #2, Jeanette advised that Derek Alfonso Quinata wasn't there, and that she advised him on the business card left there (D. Carroll)
- 03/11/2022 9:40 a.m. – Per Jonathan Huerta, Derek Alfonso Quinata is no longer employed there. Attempted to call listed phone number, but no answer. Request a better location of Derek Alfonso Quinata (D. Luera)

- 03/14/2022 10:33 a.m. – Left a voicemail for Tanya Galinger, requesting a better location of Derek Alfonso Quinata (J. Ortega)
- 03/14/2022 8:44 a.m. – Spoke with Tanya. Advised that she will call back with information (J. Ortega)
- 03/17/2022 10:13 a.m. – Tanya advised to return documents unserved, with Affidavit in support of a Substituted Service, under Rule 106 – Texas (J. Ortega)

Service has not been successful for reasons aforementioned. I believe that the only manner, which will reasonably be effective to give the defendant notice of this suit, is by SUBSTITUTE SERVICE (Rule 106) by: serving ANYONE OVER THE AGE OF SIXTEEN OR ATTACHING SERVICE TO THE FRONT DOOR AT: 4745 Rutherford Dr, El Paso, El Paso County, Texas 79924.

This affidavit is true and correct to the best of my knowledge.

 **MAR 17 2022**
 David T. Carroll 2651/AFFIANT
 Deputy Sheriff, El Paso County, Texas

Subscribed and sworn before me this 17 day of March, 2022.

Seal:


 Notary Public in and for the, State of Texas, residing in El Paso County, Texas

My Commission Expires: 10-29-2024



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

IN THE MATTER OF

DEREK ALFONSO QUINATA

STATE BAR CARD NO. 24072292

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§
§
§
§

CAUSE NO. 66219

ORDER ON RESPONDENT'S MOTION FOR CONTINUANCE

After considering Respondent's Motion for Continuance and Petitioner's Response in Opposition, the Board of Disciplinary Appeals finds that Respondent's motion lacks merit.

IT IS, THEREFORE, ORDERED that Respondent's Motion for Continuance is DENIED.

SIGNED this the ____ day of April, 2022.

CHAIR PRESIDING