

TY CLEVINGER
21 Bennett Avenue #62
New York, New York 10033

telephone: 979.985.5289
facsimile: 979.530.9523

tyclevenger@yahoo.com
Texas Bar No. 24034380

March 14, 2016

Board of Disciplinary Appeals
P.O. Box 12426
Austin, Texas

Via electronic submission
classificationappeals@txboda.org

Re: Case No. 201600750; Warren Kenneth Paxton, Jr.; SBOT #15649200

Members of the Board:

I write to appeal the dismissal of the grievance that I filed in the case listed above. I wish I could say that I was surprised by the dismissal, but I was not. As I explained in a February 11, 2016 blog post, I filed the grievance primarily to see just how far the Office of Chief Disciplinary Counsel was willing to go in order to protect Attorney General Ken Paxton. *See* “Ken Paxton and the State Bar of Texas,” <http://lawflog.com/?p=1043>. I now have my answer.

For nearly twenty years (longer than I have been a lawyer), I have watched the state bar bend itself over backwards in order to protect politically-prominent and politically-connected lawyers. I have recounted some of the instances of favoritism on my blog, so I will not recount them here, but suffice it to say that the OCDC fully deserves its tarnished reputation.

According to the March 9, 2016 letter that I received from Assistant Disciplinary Counsel R. Uribe, the OCDC dismissed my grievance because the violations that I identified are “the subject of a pending criminal case against the Respondent.” You will note, however, that I simply re-filed the grievance that Erica Gammill filed against Mr. Paxton in 2014. That is the same grievance that the OCDC dismissed because it supposedly failed to state a disciplinary violation, even though Mr. Paxton had already admitted his guilt in writing and under oath (the dismissal was later affirmed by the Board of Disciplinary Appeals).

In my February 6, 2016 grievance, I noted that Mr. Paxton had since been indicted for the violations identified in Ms. Gammill's earlier grievance, so the OCDC could no longer plausibly suggest that her grievance failed to identify a violation. Apparently the OCDC agreed with me on that point, so it just changed the rules in the

middle of the game. OCDC's unwritten policy now goes something like this: if a politically-prominent attorney commits a crime, the OCDC will refuse to investigate on the grounds that the complainant failed to state a violation; but if the attorney gets indicted, the OCDC will refuse to investigate on the grounds that it is awaiting the outcome of the criminal case.

Of course, nothing in the rules prohibits the OCDC from prosecuting a disciplinary charge concurrently with a criminal charge. On the contrary, “[t]he processing of a Grievance, Complaint, Disciplinary Proceeding, or Disciplinary Action is not, except for good cause, to be delayed or abated because of substantial similarity to the material allegations in pending civil or criminal litigation.” Texas R. Disc. P. 15.02. Granted, a delay or abatement differs from an outright dismissal, but the spirit of the rule certainly implies that OCDC should not dismiss a case simply because a related criminal case is pending. In fact, OCDC prosecuted my grievance against former Robertson County District Attorney John Paschall concurrently with the overlapping criminal charge. And there are good reasons for prosecuting the cases concurrently.

First, the burden of proof differs between a disciplinary charge and a criminal charge. If the special prosecutors fail to prove Mr. Paxton's guilt beyond a reasonable doubt, the OCDC might nonetheless prove him culpable on the preponderance of the evidence. Second, the four-year limitations period for a disciplinary charge will expire this summer, *i.e.*, before Mr. Paxton's criminal case goes to trial.

I encourage the Board to repudiate the double standard that is applied to politically-favored lawyers like Mr. Paxton versus the rest of us. Please direct the OCDC to proceed with my grievance against Mr. Paxton.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ty Clevenger', with a long horizontal flourish extending to the right.

Ty Clevenger



THE BOARD of DISCIPLINARY APPEALS
APPOINTED BY THE SUPREME COURT of TEXAS
www.txboda.org (512) 427-1578

**YOU HAVE THE RIGHT TO APPEAL THE DISMISSAL OF THIS GRIEVANCE
WITHIN 30 DAYS OF THE DATE YOU RECEIVE THIS NOTICE.**

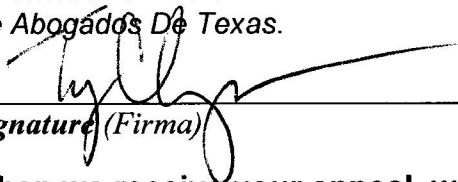
Usted tiene el derecho de apelar el despido de este agravio dentro de 30 días de la fecha en que usted recibe este aviso.

By signing below, you are asking the Board of Disciplinary Appeals ("BODA") to review the dismissal of your grievance by the State Bar of Texas.

Firmando abajo, usted está pidiendo que la Mesa Directiva de Apelaciones Disciplinarias (Board of Disciplinary Appeals – "BODA") revise el despido de su agravio por la Barra de Abogados de Texas (State Bar of Texas).

Do not send any additional information to BODA. BODA will obtain a copy of your grievance from the State Bar of Texas.

No envíe información adicional a BODA. BODA obtendrá una copia de su agravio de la Barra De Abogados De Texas.



Signature (Firma)

3/14/16

Date (Fecha)

When we receive your appeal, we will notify you in writing at this address:

Cuando recibamos su apelacion, nosotros le mandaremos correspondencia de que lo hemos recibido a esta direccion:

**Mr. Ty Clevenger
21 Bennett Avenue #62
New York, NY10033**

Or, if your address has changed since you filed your grievance, please print your new address here:

Si su direccion a cambiado desde que puso su queja, porfavor ponga su nueva direccion aqui:

Mail, email or fax this form (*Envíe por correo, correo electrónico, o envíe esta forma por fax*):

- Mail:** Board of Disciplinary Appeals
P.O. Box 12426
Austin TX 78711
- Email:** classificationappeals@txboda.org
- FAX:** (512) 427-4130