

**Statement of Facts in Support of Grievance Against  
Texas Attorney Charles J. Sebesta  
Texas Bar No. 17970000**

**Murders Committed**

On August 18, 1992, Police Chief *Jewel Fisher* in Somerville, Texas, caught sight of a house on fire in the predominantly black neighborhood. The town is located ninety miles northwest of Houston, Texas. The house belonged to the 45-year-old *Bobbie Davis*. Fisher quickly radioed for help, and volunteer firefighters discovered the bodies of *Bobbie*, her teenage daughter, and her four grandchildren inside. Each person had been brutally attacked, according to *Pamela Colloff's* October, 2010 Crime Investigative Report in *Texas Monthly*.

*Bobbie* had been bludgeoned and stabbed. Her sixteen-year-old daughter, *Nicole Davis*, a popular senior and top athlete at Somerville High School, had been bludgeoned, stabbed, and shot. *Bobbie's* grandchildren—nine-year-old *Denitra*, six-year-old *Brittany*, five-year-old *Lea'Erin*, and four-year-old *Jason*—had been knifed to death. (*Bobbie's* daughter *Lisa* was mother to the oldest and youngest children; *Bobbie's* son, *Keith*, was father to the two middle girls.) The victims have been stabbed 66 times. The following day, TV news crews from Houston came by helicopter, circling overhead, Texas Rangers arrived and the investigation begun. There were no obvious suspects and hardly any clues; the fire had ravaged the crime scene, and the killer—or killers—had left behind no witnesses. (*Colloff*)

*Colloff* reported that a “night clerk at the Somerville Stop & Shop, *Mildred Bracewell*, stated that two black men with a gas can had purchased gasoline shortly before the time of the murders. A hypnotist employed by the Department of Public Safety elicited a more precise

description from her of one of the men, and a forensic artist sketched a composite drawing of the suspect.”

### **Robert Carter Confessed Murder**

Nearly one third of Somerville came to the funeral. Among the attendees, was *Jason Davis's* father, *Robert Carter*, whose strange appearance on that particular day drew great attention. The left side of his face, his left hand, neck, and ears were heavily bandaged. When *Bobbie's* relatives began to inquire about his injuries, *Carter's* wife, *Cookie*, claimed that *Carter's* injuries were caused by his lawn mower explosion. *Carter* added without explanation, “I was burned with gasoline.” (*Colloff*)

After the funeral, the Rangers visited *Carter* at his home in Brenham, Texas. The Rangers had learned that four days before the killing, *Carter* had been served with a paternity suit paper filed by *Lisa* to obtain child support. Ranger *Ray Coffman*, the case's lead investigator, read *Carter* his Miranda rights and asked him to come in for questioning. At the DPS station in Brenham, Texas, *Carter* sat down with the four Rangers assigned to the case: *Coffman*, *Jim Miller*, *George Turner*, and their supervisor, *Earl Pearson*. (*Colloff*)

The Rangers continued to interrogate *Carter* who insisted that he knew nothing about the killings, and he agreed to take a polygraph exam which he eventually failed. After several hours of investigation, *Carter* finally agreed to make a statement about the crime. *Carter* claimed that he had been present at the *Davis* home on the night of the murders, but it was his wife's first cousin, *Anthony Graves*, who was to blame. (*Colloff*)

During their interrogation, the Rangers never questioned whether *Carter* had any role in the killings. They never bothered to ask *Carter* important questions that could have determined

whether *Graves* was actually present the night of the crime at the scene of the crime. Or why *Graves* would have brutally murdered six people he did not know.

On the same day, the Rangers were able to gather incriminating evidence that pointed exclusively to *Carter* himself; “a cartridge box in *Carter*’s closet which held the same type of copper-coated bullets that had been used to kill one of the victims, the 22-caliber pistol that he usually kept above his bed was missing, the Pontiac Sunbird that he had admitted driving to the *Davis* home was gone; he had traded it in at a Houston car dealership two days after the killings.” (*Colloff*)

### **Graves Nightmare Begins**

Two warrants were issued hours after *Carter* made his statement: one for *Carter*, who was immediately arrested, the other for *Anthony Graves*. *Graves* was brought to the Brenham, Texas police station in handcuffs and was left waiting until a magistrate arrived to read him the charges, but he was never told why he was being detained.

When *Roy Allen Rueter*, *Graves*’s friend, learned of the six counts of capital murder charges pressed against *Graves*, he called the best lawyer he could think of, Houston defense attorney *Dick DeGuerin*, and asked for representation of *Graves*. *DeGuerin* agreed to represent *Graves* at his upcoming bond hearing and preliminary investigation.

At least three people confirmed *Graves*’s whereabouts at the time of the murders; *Graves* was at his mother’s apartment in Brenham. His 19-year-old brother, *Arthur*, and his sister *Deitrich*, who was 21, remembered him coming home shortly before midnight with his girlfriend, *Yolanda Mathis*. According to *Dick DeGuerin*, their story was corroborated by someone he interviewed in the course of his investigation: a middle-aged white woman who had

been on the other end of the line with *Graves*' brother *Arthur*. The woman however has denied ever speaking to *DeGuerin*. (*Colloff*)

### **The Lies Entrapping Graves Begin**

Ranger *Coffman*'s report had no record of the white woman or of *Arthur*, *Deitrich*, *Mathis*, or the Jack in the Box employee who vividly remembered *Graves*'s visit to the drive-through window, down to the precise details of the order he placed. The Rangers failed to search *Graves*' mother's apartment where he was arrested. Later, some items of clothing and *Graves*' aunt's car, which he had been driving, were processed by the DPS crime lab. The results discovered nothing that connected *Graves* to the crime scene.

When the Rangers questioned *Graves* after his arrest, they pressed him to tell them about the killings, but *Graves* insisted that he had no knowledge of any killing. Later, *Graves* agreed to take a polygraph exam which he failed. Again, the Rangers demanded that he tell them everything he knew about the murders, and to give *Carter* up. *Graves* reiterated that he had no knowledge of the crime. When he did not confess to the killings, he was taken to jail. Since August 23, 1992, word of the killings traveled quickly through Somerville and until his release on October 27, 2010, Anthony Graves was behind bars for the gruesome murder and the most infamous crime in Burleson County, Texas, history. (*Colloff*)

Three days later, *Carter* testified before a grand jury, and recanted the story he had told the Rangers previously. *Carter* stated that he had been pressured to name an accomplice and that he was promised a deal if he gave up a name. The Rangers' case against *Graves* rested on *Mildred Bracewell*, the convenience store clerk who had undergone hypnosis to help the investigation. *Bracewell* picked *Graves* out of a photo lineup and a subsequent live lineup. Her

husband, who had also been at the Stop & Shop that night, could not. *Bracewell* was never able to identify *Carter*, and her selection of *Graves* was problematic; he did not fit her original description or resemble the composite drawing that had been sketched from her hypnotically recalled memories. (*Colloff*)

A bond hearing was set that October, and *Graves* was denied bond. After the bond hearing, *DeGuerin* withdrew as *Graves*'s attorney who remained in the county jail for the next two years, until his case went to trial.

### **Charles Sebesta Involvement**

*Charles Sebesta*, who served as the district attorney of Burleson and Washington counties for 25 years, faced enormous pressure, not only to win a conviction against *Graves* but also to secure a death sentence. In *Graves*'s case, the prosecution's star witness had recanted, and four Rangers had been unable to turn up a plausible motive or any physical evidence that tied *Graves* to the crime, however, *Sebesta* pressed ahead.

Neither the Rangers nor the prosecution seems to have seriously considered *Carter*'s motive for naming, namely to deflect attention from his wife or that he had no accomplice. The evidence against *Carter* was substantial, and in February 1994 a jury in the Central Texas town of Bastrop, found him guilty of capital murder and sentenced him to death. As *Graves*' trial date approached, *Sebesta* negotiated a deal with *Carter*'s attorney: If *Carter* testified against *Graves*, the state would allow him to plea to a life sentence if his conviction were reversed on appeal. (*Colloff*) *Carter*'s testimony became crucial to *Graves*' case.

On the eve of *Carter*'s scheduled court appearance, the prosecutors were not certain that their most important witness, *Carter* would actually take the stand or what he planned to say if

he did. The next morning, *Carter* had cold feet and refused to testify. *Sebesta* approached *Carter* with a deal; If he agreed to take the stand, prosecutors would not ask him about his wife Cookie. With *Sebesta* cutting a deal for his wife, *Carter* agreed to testify against *Graves*. *Sebesta* informed the court of the prosecution's agreement with the witness: *Carter* would testify as long as he was not questioned about his wife's possible involvement in the murders. *Sebesta* however, failed to mention that *Carter* had claimed, less than 24 hours earlier, to have committed the crime by himself and that no accomplice was involved. (*Colloff*)

On January 14, 1998, *Carter* wrote a three-page letter to his high school English teacher, *Marilyn Adkinson*, confessing that he had falsely testified against *Graves* to protect his wife. *Carter* stated in the letter that "he lied on an innocent man to keep his family safe." *Carter* also stated in the letter that prior to testifying against *Graves* he informed *Sebesta*, of this information, but *Sebesta* "did not want to hear it." *Carter* also wrote a letter to the *Davis* family asserting that *Graves* had no knowledge of the crime he was accused of committing. In the letter, *Carter* states, "I just don't want [an] innocent person to die for something they do not know anything about." *Carter* also acknowledged the fact that he previously had lied about the matter. In addition, *Carter* reached out to *Graves*' state habeas counsel, Mr. *Patrick McCann*, around the same time the *Texas Court of Criminal Appeals* upheld *Graves* conviction, to help clear the record with the charges against *Graves*. However, due to an error made by Mr. *McCann*, the deposition that he took from *Carter* was rendered inadmissible.

In the spring of 2000, thirteen days prior to *Carter*'s execution, *Graves*' counsel was afforded the opportunity to question *Carter* under oath. *Carter* again took ownership of the *Davis* family murder. *Carter* detailed how he carried out the crime. Under cross-examination from *Sebesta*, *Carter* again stated that he committed the crime, but *Sebesta* did not want to hear

it. *Sebesta* stated that he had no recollection of the conversation that *Carter* spoke of. *Carter* went on to explain that the conversation took place the day of the trial.

May 31, 2000, the day of *Carter's* execution, *Carter* stated to the *Davis* family that *Graves* had nothing to do with the murder and that he lied on him in court. This same year, *Sebesta* agreed to an interview on an NBC special where he admitted, while cameras were rolling, that *Carter* informed him prior to taking the stand at *Graves* trial, that he acted alone. This statement made by *Sebesta*, on a nationally televised show, breached *Graves's* constitutional rights. *Brady v. Maryland*, a landmark Supreme Court ruling required prosecutors to turn over exculpatory evidence to the defense. *Sebesta* intentionally did not disclose these exculpatory evidence. The case against *Graves* was built on the statement of one witness, the witness recanted, and *Sebesta* did not divulge this information to the defense.

In 2000 the Texas Court of Criminal Appeals denied *Graves's* writ of habeas corpus. *Graves's* attorney filed a motion asking the court to grant *Graves* another habeas appeal arguing that *Graves's* first habeas attorney was incompetent. The Court agreed to consider the claim, however, in January 2002, a 6-3 majority ruled against *Graves* again stating that he received competent counsel. Judge *Tom Price* dissented that competent counsel required more than a human with a pulse and a law license.

In 2003, the United States Court of Appeals for the Fifth Circuit began reviewing *Graves's* case. The Court found that *Sebesta* did not reveal to the defense the statements that *Carter* made implicating himself in the murders. However, the lower court ruling was upheld. The decision was appealed, and on March 2, 2006, a three-judge panel unanimously held that the state's case against *Graves* hinged on *Carter's* perjured testimony. Had *Graves's* counsel known

about the information *Sebesta* acquired from *Carter* the defense's approach to the case would have been different. The Court of Appeals criticized *Sebesta* for "prompting two witnesses to say on the stand, under oath, that *Carter* never wavered, other than his grand jury testimony, in identifying *Graves* as the killer. The Court of Appeals went on to state that "even more egregious than *Sebesta's* failure to disclose *Carter's* statements is his deliberate trial tactic of eliciting testimony that he knew was false." *Grave's* conviction was overturned, but it did not make a determination as to *Grave's* actual innocence or guilt. *Graves* left death row September 6, 2006. Despite the statements made by *Carter* on numerous occasions as well as more than once to *Sebesta*, *Sebesta* remained adamant that the confession was a last-minute effort by *Carter* to protect his wife.

In a hearing held in 2006, Ethical and professional licensing expert, attorney *Robert S. Bennett* of Houston, Texas, testified for *Graves* to have the district attorney's office recused. The trial judge later recused *Joan E. Scroggins*, a Burleson County assistant district attorney and the District attorney's office no longer was involved. Later, Veteran prosecutor *Kelly Siegler* was brought in as a special prosecutor for *Graves'* retrial.

Former Harris County assistant district attorney *Siegler* looked into *Graves'* conviction and determined that the former Burleson County District Attorney *Sebesta* manufactured evidence, misled jurors and elicited false testimony. *Siegler*, who has sent nineteen men to death row in her career, went even further and laid the blame for *Graves'* wrongful conviction squarely at the feet of *Sebesta*. As a result, *Graves* was released from prison on October 27, 2010.

**Prosecutor *Charles Sebesta* Violation of The Texas Rules of Professional Conduct and Why *Sebesta* should be prosecuted for His Unethical Behaviors**



While all lawyers are governed by legal and ethical rules, prosecutors are subject to more stringent obligations. Unlike the private lawyer or defense attorney whose obligation is to be a zealous advocate on behalf of his client, the prosecutor is entrusted with the duty to "seek justice" in addition to fulfilling her role as an advocate, not of a single individual, but of the government and society as a whole.

The following will analogize the rules *Sebesta* violated:

**Under the Texas Disciplinary Rules of Professional Conduct, Rule 3.09(d): Disclosure of information favorable to accused; (Special Responsibilities of a Prosecutor):**

The prosecutor in a criminal case shall:

(d) Make timely disclosure to the defense of all evidence or information known to the prosecutor that tends to negate the guilt of the accused or mitigates the offense, and, in connection with sentencing, disclose to the defense and to the tribunal all unprivileged mitigating information known to the prosecutor, except when the prosecutor is relieved of this responsibility by a protective order of the tribunal;

The prosecutor in a criminal case shall make timely disclosure to the defense of all evidence or information known to the prosecutor that tends to negate the guilt of the accused or mitigates the offense, and, in connection with sentencing, disclose to the defense and to the tribunal all unprivileged mitigating information known to the prosecutor.

Although the law imposes a duty on prosecutors to hand over any exculpatory evidence to the defense, whether they believe its veracity or not, *Sebesta* deliberately violated this duty and instead, withheld evidence that could have helped prove *Graves'* innocence. *Sebesta* violated this duty by failing to disclose that another man had confessed that he alone had committed the murders for which *Graves* was convicted. And according to the U.S. 5th Circuit Court of Appeals ruling, *Sebesta* not only has violated his duty to disclose according to the *Texas*

*Rules of Professional Conduct*, but he had also violated the *Brady* rule by failing to disclose exculpatory evidence.

*Sebesta* further violated the *Texas Disciplinary Rules of Professional Conduct* Under **Rule 3.03(a)(5): Introducing false evidence**

- (a) A lawyer shall not knowingly:
  - (5) Offer or use evidence that the lawyer knows to be false.

In 2006, the US Fifth Circuit Court of Appeals issued a ruling confirming that *Sebesta* had not only withheld powerful exonerating evidence in the Graves case, he also had obtained false statements from witnesses. *Sebesta* had allegedly used threats to scare Graves' alibi witness from testifying. He also bullied *Robert Carter*, a key witness, into testifying against Graves by threatening to prosecute *Carter's* wife. (*Carter*, who was prosecuted and convicted for the killings, had repeatedly insisted that *Graves* had nothing to do with the crimes.) *Sebesta* coerced the key witness, misinterpreted physical evidence, and withheld exculpatory evidence. Sadly, *Sebesta* was successful in his endeavor and *Graves* lost 18 years of his life because of it.

#### **Rule 8.04 Misconduct**

(a) A lawyer shall not:

(1) Violate these rules, knowingly assist or induce another to do so, or do so through the acts of another, whether or not such violation occurred in the course of a client-lawyer relationship;

(2) Commit a serious crime, or commit any other criminal act that reflects adversely on the lawyers honesty, trustworthiness or fitness as a lawyer in other respects;

(3) engage in conduct involving dishonesty, fraud, deceit or misrepresentation;

(4) engage in conduct constituting obstruction of justice;

(5) State or imply an ability to influence improperly a government agency or official;

(6) Knowingly assist a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or other law;

(7) violate any disciplinary or disability order or judgment;

(8) engage in conduct that constitutes barratry as defined by the law of this state;

(9) fail to comply with Article X, section 32 of the State Bar Rules;

(10) Engage in the practice of law when the lawyer's right to practice has been suspended or terminated;

(11) Violate any other laws of this state relating to the professional conduct of lawyers and to the practice of law.

By violating Rules 3.03(a)(5) and 3.09(d), *Sebesta* has also violated Rule 8.04 Misconduct, under the Texas Code of Professional Conduct. By manufacturing evidence, misleading jurors eliciting false testimony from witnesses, *Sebesta* engaged in conduct involving dishonesty, fraud, deceit or misrepresentation, and in doing so obstructed justice.

### **Rule 7.02. Communications Concerning a Lawyer's Services**

(a) A lawyer shall not make a false or misleading communication about the qualifications or the services of any lawyer or firm. A communication is false or misleading if it:

(1) Contains a material misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not materially misleading;

(2) is likely to create an unjustified expectation about results the lawyer can achieve, or states or implies that the lawyer can achieve results by means that violate these rules or other law;

*Sebesta* had also violated Rule 7.02 under the Texas Code of Professional Conduct in making false and misleading statements to the public through his webpage, on public websites, national TV and press conferences. *Sebesta* went to great lengths and was trapped in a web of lies to prove his innocence. *Sebesta's* website claims, among other things, that "the State Bar

cleared *Sebesta* of any wrongdoing in the case" and that the Bar's grievance committee had determined that "there was no evidence to justify a formal hearing."

### **Applicable Statute For Re-filing The Grievance**

#### **Texas Senate Bill no. 825. Texas Government Code, Section 81.072**

##### **TITLE: Relating to Disciplinary Standards and Procedures Applicable to Grievances Alleging Certain Prosecutorial Misconduct.**

The statute approved and amended by the Texas Supreme Court on October 14, 2013, reads as follows:

##### **SECTION1:**

(b) The Supreme Court shall establish minimum standards and procedures for the attorney disciplinary and disability system. The standards and procedures for processing grievances against attorneys must provide for:

(1) Classification of all grievances and investigation of all complaints;

(2) A full explanation to each complainant on dismissal of an inquiry or a complaint;

(11) The commission adopting rules that govern the use of private reprimands by grievance committees and that prohibit a committee:

(A) Giving an attorney more than one private reprimand within a five-year period for a violation of the same disciplinary rule; or

(B) Giving a private reprimand for a violation:

(i) That involves a failure to return an unearned fee, a theft, or a misapplication of fiduciary property; or

(ii) of a disciplinary rule that requires a prosecutor to disclose to the defense all evidence or information known to the prosecutor that tends to negate the guilt of the accused or mitigates the offense, including Rule 3.09(d), Texas Disciplinary Rules of Professional Conduct; and

(12) Distribution of a voluntary survey to all complainants urging views on grievance system experiences.

(b-1) In establishing minimum standards and procedures for the attorney disciplinary and disability system under Subsection

(b) The Supreme Court must ensure that the statute of limitations applicable to a grievance filed against a prosecutor that alleges a violation of the disclosure rule does not

begin to run until the date on which a wrongfully imprisoned person is released from a penal institution.

(b-2) For purposes of Subsection (b-1):

(1) "Disclosure rule" means the disciplinary rule that requires a prosecutor to disclose to the defense all evidence or information

known to the prosecutor that tends to negate the guilt of the accused or mitigates the offense, including Rule 3.09(d), Texas Disciplinary Rules of Professional Conduct.

(2) "Penal institution" has the meaning assigned by Article 62.001, Code of Criminal Procedure.

(3) "Wrongfully imprisoned person" has the meaning assigned by Section 501.101.

### **Application of the New Statute**

As stated above, *Sebesta* deliberately violated his duty to disclose exculpatory evidence by failing to disclose that another man had confessed that he alone had committed the murders for which *Graves* was convicted. Further, *Sebesta* not only withheld powerful exonerating evidence in the *Graves* case, he also had obtained false statements from witnesses and had allegedly used threats to scare *Graves'* alibi witness from testifying.

Accordingly, the prosecution's violation of the disclosure rule under the Texas Rules of Professional Conduct has been established. In applying the statute relating to disciplinary standards and procedures applicable to grievances alleging certain prosecutorial misconduct, the statute of limitations to file *Graves'* grievance does not run until October 27, 2014. *Graves* was released from prison October 27, 2010 and accordingly, has until October 27, 2014 to file a grievance against the prosecutor *Sebesta*.

### **Duty of a Lawyer To Report Professional Misconduct of Another**

#### **Lawyer**

### **Rule 8.03 Reporting Professional Misconduct**

(a) Except as permitted in paragraphs (c) or (d), a lawyer having knowledge that another lawyer has committed a violation of applicable rules of professional conduct that raises a substantial question as to that lawyers honesty, trustworthiness or fitness as a lawyer in other respects, shall inform the appropriate disciplinary authority.

According to Rule 8.03 *Reporting Professional Misconduct of the Texas Disciplinary Rules of Professional Conduct*, attorney *Robert S. Bennett* as a lawyer licensed in the state of Texas, who has knowledge that *Sebesta*, another lawyer, has committed violation of applicable rules of professional conduct that raises a substantial question as to *Sebesta's* honesty, trustworthiness or fitness as a lawyer, has the duty to inform the appropriate disciplinary authority.

Attorney *Robert S. Bennett* has knowledge that *Sebesta* deliberately violated his duty to disclose exculpatory evidence by failing to disclose that another man had confessed that he alone had committed the murders for which *Graves* was convicted and that *Sebesta* withheld powerful exonerating evidence in the *Graves* case, obtained false statements from witnesses and had allegedly used threats to scare *Graves'* alibi witness from testifying. Accordingly, Attorney *Robert S. Bennett* has the duty to inform the *Office of the Chief Disciplinary Counsel* for the State Bar of Texas.

### **Conclusion**

*Charles Sebesta* has engaged in professional misconduct according to the Texas Rules of Professional Conduct and the Applicable Statute for re-filing the Grievance under the *Texas Government Code*, Section 81.072 does not bar such filing.

### **Standard of Review**

According to the *Texas Disciplinary Rules of Professional Conduct*, Rule 1.06 (U), the standard of review applicable to Grievances before the *Chief Disciplinary Counsel* of the *District Grievance Committee* is “*Just Cause* Such cause as is found to exist upon a reasonable inquiry that would induce a reasonably intelligent and prudent person to believe that an attorney either has committed an act or acts of Professional Misconduct requiring that a Sanction be imposed, or suffers from a Disability that requires either suspension as an attorney licensed to practice law in the State of Texas or probation.

*Sebesta* deliberately violated his duty to disclose exculpatory evidence by failing to disclose that another man had confessed that he alone had committed the murders for which Graves was convicted. Further, *Sebesta* not only withheld powerful exonerating evidence in the Graves case, he also had obtained false statements from witnesses and had allegedly used threats to scare Graves' alibi witness from testifying. By manufacturing evidence, misleading jurors eliciting false testimony from witnesses, *Sebesta* engaged in professional misconduct, and in doing so obstructed justice.

Subsequently, the facts and materials suggest “enough evidence, or Just Cause, to support the allegation of professional misconduct” due to violation of one or more of the Texas Disciplinary Rules of Professional Conduct.

The following Definitions and Procedures involving the Texas Rules of Professional Conduct are provided below for reference purposes.

### **1.06 Definitions**

B. "Board" means the Board of Directors of the State Bar of Texas.

C. "Chief Disciplinary Counsel" means the person serving as Chief Disciplinary Counsel and any and all of his or her assistants.

D. "Commission" means the Commission for Lawyer Discipline, a permanent committee of the State Bar of Texas.

E. "Committee" means any of the grievance committees within a single District.

F. "Complainant" means the person, firm, corporation, or other entity, including the Chief Disciplinary Counsel, initiating a Complaint or Inquiry.

G. "Complaint" means those written matters received by the Office of the Chief Disciplinary Counsel that, either on the face thereof or upon screening or preliminary investigation, allege Professional Misconduct or attorney Disability, or both, cognizable under these rules or the Texas Disciplinary Rules of Professional Conduct.

H. "Director" means a member of the Board of Directors of the State Bar of Texas.

J. "Disciplinary Action" means a proceeding brought by or against an attorney in a district court or any judicial proceeding covered by these rules other than an Evidentiary Hearing.

K. "Disciplinary Petition" means a pleading that satisfies the requirements of Rule 3.01.

L. "Disciplinary Proceedings" includes the processing of a Grievance, the investigation and processing of an Inquiry or Complaint, presentation of a Complaint before a Summary Disposition Panel, and the proceeding before an Evidentiary Panel.

N. "Evidentiary Hearing" means an adjudicatory proceeding before a panel of a grievance committee.

O. "Evidentiary Panel" means a panel of the District Grievance Committee performing an adjudicatory function other than that of a Summary Disposition Panel with regard to a Disciplinary Proceeding pending before the District Grievance Committee of which the Evidentiary Panel is a subcommittee.

P. "Evidentiary Petition" means a pleading that satisfies the requirements of Rule 2.17.

R. "Grievance" means a written statement, from whatever source, apparently intended to allege Professional Misconduct by a lawyer, or lawyer Disability, or both, received by the Office of the Chief Disciplinary Counsel.

U. "**Just Cause**" means such cause as is found to exist upon a reasonable inquiry that would induce a reasonably intelligent and prudent person to believe that an attorney either has committed an act or acts of Professional Misconduct requiring that a Sanction be imposed, or suffers from a Disability that requires either suspension as an attorney licensed to practice law in the State of Texas or probation.

## **Procedural Rule for the District Grievance Committee**

### **2.10 Classification of Inquiries and Complaints**



The Chief Disciplinary Counsel shall within thirty days examine each Grievance received to determine whether it constitutes an Inquiry or a Complaint. If the Grievance is determined to constitute an Inquiry, the Chief Disciplinary Counsel shall notify the Complainant and Respondent of the dismissal. The Complainant may, within thirty days from notification of the dismissal, appeal the determination to the Board of Disciplinary Appeals. If the Board of Disciplinary Appeals affirms the classification as an Inquiry, the Complainant will be so notified and may within twenty days amend the Grievance one time only by providing new or additional evidence. The Complainant may appeal a decision by the Chief Disciplinary Counsel to dismiss the amended Complaint as an Inquiry to the Board of Disciplinary Appeals. No further amendments or appeals will be accepted. In all instances where a Grievance is dismissed as an Inquiry other than where the attorney is deceased or is not licensed to practice law in the State of Texas, the Chief Disciplinary Counsel shall refer the Inquiry to a voluntary mediation and dispute resolution procedure. If the Grievance is determined to constitute a Complaint, the Respondent shall be provided a copy of the Complaint with notice to respond, in writing, to the allegations of the Complaint. The notice shall advise the Respondent that the Chief Disciplinary Counsel may provide appropriate information, including the Respondent's response, to law enforcement agencies as permitted by Rule 6.08. The Respondent shall deliver the response to both the Office of the Chief Disciplinary Counsel and the Complainant within thirty days after receipt of the notice.

## **2.12 Investigation and Determination of Just Cause:**

No more than sixty days after the date by which the Respondent must file a written response to the Complaint as set forth in Rule 2.10, the Chief Disciplinary Counsel shall investigate the Complaint and determine whether there is Just Cause.

### **Request For Investigation**

In support of the opinion of Attorney *Lillian B. Hardwick* (See attached) who is a member of the *State Bar of Texas Disciplinary Rules of Professional Conduct Committee* and serves as a consultant and expert witness on lawyer and judicial ethics, and prosecutor *Kelly Siegler* who won over 19 death-row convictions and who was brought in as a special prosecutor to take over the retrial of *Graves'* case and her firm belief in *Sebesta's* professional misconduct, and based on the statute and information provided above, complainant *Anthony Graves* requests that the Office of Chief Disciplinary Counsel classify this document as a complaint. A full investigation should follow.

/s/

/s/

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