**BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT**
**PANEL B**

FILED
APR 01 2008
LESLIE W. STEEN
CLERK

IN RE: **JIMMIE L. WILSON**
ARKANSAS BAR ID #73128
CPC Docket No. 2007-101

**FINDINGS AND ORDER**

The formal charges of misconduct upon which this Findings and Order is based were developed from information obtained by the Office of Professional Conduct from the files of the Arkansas Supreme Court in No. 07-807, *McCoy v. Carter-Jones Timber Co.* The information related to the representation of the Appellants McCoy by Respondent Jimmie L. Wilson, an attorney practicing primarily in West Helena, Phillips County, Arkansas. On October 18, 2007, Respondent was served with a formal complaint.

In 2001 suit was filed in Dallas County alleging wrongful timber cutting by the McCoys from lands on which Carter Jones Timber Company owned the right to the timber. After a pre-trial hearing on April 6, 2006, by Order filed May 3, 2007, counsel (Mr. Clay) for the McCoys was relieved as their attorney of record and the case was set for bench trial on May 30-31, 2006. The trial was conducted on May 30, 2006, with the McCoys not represented by counsel. Jimmie L. Wilson entered his written appearance as counsel for the McCoys on June 13, 2006. The trial court wrote counsel of record on October 12, 2006, and directed that the Order from the May 2006 hearing be filed. The Order and Judgment was filed October 13, 2006. The trial court found in favor of Carter Jones Timber Company and assessed a judgment for triple damages in the amount of $87,603.57.

On October 25, 2006, Mr. Wilson filed a Motion for New Trial; Motion to Amend, Correct, Set-Aside Judgment and For Other Remedies. On December 8, 2006, Mr. Wilson filed a first Notice

of Appeal for the McCoys. Ninety (90) days from that filing would be on or about March 8, 2007. On December 8, 2006, the Dallas County Circuit Clerk wrote Mr. Wilson, asking for clarification of just what he wanted that office to prepare for his client's appeal. On March 13, 2007, Mr. Wilson filed by fax his Motion for Extension of Time and For Other Relief. The original of the Motion, mailed for filing, was filed March 16, 2007. On March 13, 2007, Mr. Wilson wrote the Circuit Clerk and the Court Reporter asking them to prepare the record and the transcript for the appeal, and to forward their cost estimates to him. On March 19, 2007, the Circuit Clerk wrote Mr. Wilson with the cost estimate for that office and asked for advance payment. On March 20, 2007, the Court Reporter wrote Mr. Wilson requesting needed information to prepare her cost estimate. On April 4, 2007, Mr. Wilson sent a check to the Circuit Clerk for the Clerk's portion of the appeal record. By April 16, 2007, the Clerk had completed her portion of the record and so notified the Court Reporter. On April 16, 2007, the Court Reporter wrote Mr. Wilson and advised him of her $451.00 estimate for the cost of the May 30, 2006, trial transcript, and her requirement that she receive advance payment before starting work.

On April 16, 2007, Mr. Wilson wrote the trial judge about his requested extension of time on the appeal. On April 21, 2007, the trial judge wrote Mr. Wilson, indicated his request for extension of time was untimely, and enclosed an Order Denying Motion for Extension, which was filed April 23, 2007. On May 7, 2007, the Circuit Clerk wrote the Court Reporter, notifying her that the Clerk's portion of the appeal record was complete and enclosing a Fee Bill for $1,741.64 for the Clerk's 826-page record. On May 21, 2007, Mr. Wilson filed his Notice of Appeal from the Court's Order executed on April 21, 2007. On May 31, 2007, the Circuit Clerk transmitted to Mr. Wilson two copies of the appeal record.

Mr. Wilson tendered the record on appeal and $100.00 filing fee to the Supreme Court Clerk's office on July 25, 2007. The cost of the two-volume, 830 page transcript was $1,741.64. In his

response, Mr. Wilson stated he, and not his client, paid the filing fee and transcript costs of the appeal. He was notified the tender of the record was not timely and that he would need to file a Motion for Rule on the Clerk on behalf of his clients. He filed a Motion for Rule on the Clerk on August 3, 2007, accepting responsibility if the Court determined that the filing of his motion for extension of time to the trial court was untimely. On September 6, 2007, the Court issued its Per Curiam Order denying his client's Motion for Rule on the Clerk, ending his client's opportunity to an appeal.

Upon consideration of the formal complaint and attached exhibit materials, the response to it, and other matters before it, and the Arkansas Model Rules of Professional Conduct, Panel B of the Arkansas Supreme Court Committee on Professional Conduct finds:

A. Mr. Wilson's conduct violated Arkansas Rule 1.1 in that he was not thorough enough in his representation of his clients to make certain that he timely filed a motion for extension of time for his clients in their appeal, when he became aware that the record could not be completed before the expiration of the ninety-day period from the date of his first notice of appeal. Arkansas Rule 1.1 requires that a lawyer provide competent representation to a client, including the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

B. Mr. Wilson's conduct violated Arkansas Rule 1.3 in that he failed to act with reasonable diligence by failing to file a Motion for Extension of Time for his clients until March 13, 2007, which was several days after the deadline set by Ark. R. App. P. - Civ 5(a) for filing such a motion and securing entry of any Order granting such a motion. Arkansas Rule 1.3 requires that a lawyer shall act with reasonable diligence and promptness in representing a client.

C. Mr. Wilson's conduct violated Arkansas Rule 8.4(d) in that his failure to be certain that the record on appeal was timely filed, or that a timely order extending the time for filing the record was

obtained and filed, resulted in his clients being denied their opportunity for appellate review of a judgment of $87,603.57 against them. Arkansas Rule 8.4(d) requires that a lawyer not engage in conduct that is prejudicial to the administration of justice.

WHEREFORE, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct, acting through its authorized Panel B, that **JIMMIE L. WILSON**, Arkansas Bar ID# 73128, be, and hereby is, **CAUTIONED** for his conduct in this matter, is fined $750.00, and assessed costs of $50.00. The fine and costs assessed herein, totaling $800.00, shall be payable by cashier's check or money order payable to the "Clerk, Arkansas Supreme Court" delivered to the Office of Professional Conduct within thirty (30) days of the date this Findings and Order is filed of record with the Clerk of the Arkansas Supreme Court.

ARKANSAS SUPREME COURT COMMITTEE ON
PROFESSIONAL CONDUCT - PANEL B

By: Valerie L. Kelly
Valerie L. Kelly, Chair, Panel B

Date: February 27, 2008

(Rev. 3-18-06 SL)