BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT
PANEL A

FILED
MAY 06 2009
LESLIE W. STEEN
CLERK

IN RE: MORRIS W. THOMPSON
ARKANSAS BAR ID NO. 80145
CPC DOCKET NO. 2008-098

FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from information the Committee obtained from files maintained by the Arkansas Supreme Court Clerk. The information related to the representation of Sandra Lewis by Morris W. Thompson, Attorney at Law, Little Rock, Arkansas.

Morris W. Thompson filed suit on behalf of Ms. Lewis against Regis Corporation, d/b/a Hair Club for Men and Women in Little Rock District Court. On November 10, 2005, Mr. Thompson filed an Amended Complaint in Little Rock District Court. On November 15, 2005, Mr. Thompson filed a Motion to Transfer the matter from Little Rock District Court to Pulaski County Circuit Court. On November 21, 2005, Little Rock District Court Judge David A. Stewart granted the motion to transfer and the matter was filed in Pulaski County Circuit Court as *Sandra Lewis v. Regis Corporation d/b/a Hair Club for Men and Women*, Pulaski County Circuit Court Case No. CV05-14920.

On December 6, 2005, Mr. Thompson filed a Second Amended Complaint adding an additional defendant, AMCA, Inc. On February 22, 2006, the defendants filed a Motion to Dismiss alleging that there was lack of jurisdiction, insufficiency of process, and insufficiency of service of process. No response to the Motion to Dismiss was filed. On March 31, 2006, an Order to Dismiss Without Prejudice was entered by the Pulaski County Circuit Court. The Order stated that it applied to all defendants in the case.

On November 5, 2007, Mr. Thompson filed a Motion to Modify Order. In his motion, Mr. Thompson stated that the court erred as the Order of Dismissal was entered prior to the time for service, as set forth in Rule 4 of the Arkansas Rules of Civil Procedure, had expired. On May 1, 2008, the Pulaski County Circuit Court denied Mr. Thompson's Motion to Modify Order. Mr. Thompson filed a notice of appeal on May 22, 2008.

On August 8, 2008, Mr. Thompson tendered the record to the Arkansas Supreme Court Clerk. The Clerk refused to file the record as Mr. Thompson's Motion to Modify Order was not filed within sixty (60) days of the March 31, 2006, Order.

On August 13, 2008, Mr. Thompson filed a Motion for Rule on the Clerk. In the Motion for Rule on the Clerk, Attorney stated that the Clerk erred as Rule 60(c)(3) of the Rules of Civil Procedure permit, "after the expiration of ninety (90) days of the filing of said judgment with the clerk of the court, to vacate or modify such judgment or order...for misprisions of clerk." On August 22, 2008, the attorney for the defendants filed a response.

On September 4, 2008, the Arkansas Supreme Court issued a *Per Curiam* Order wherein the Corut stated that Rule 60(c)(3) applied to misprisions of the circuit clerk, not by the circuit court. As a result, the Court stated, Rule 60(c)(3) did not apply, and the Supreme Court Clerk was correct in refusing to tender the record.

On September 15, 2008, Mr. Thompson filed a Petition for Rehearing. The Petition was denied on October 2, 2008.

Mr. Thompson filed a general denial to the allegations contained in the Formal Complaint.

Upon consideration of the formal complaint and attached exhibit materials, Mr. Thompson's response, and the Arkansas Rules of Professional Conduct, Panel A of the Arkansas Supreme Court Committee on Professional Conduct finds:

1. Morris W. Thompson violated Arkansas Rule 1.3 when he failed to file a timely notice of appeal following the entry of the Order of Dismissal on March 31, 2006, and when he failed to file a timely Motion to Modify the March 31, 2006, Order of the Pulaski County Circuit Court. Rule 1.3 requires that a lawyer act with reasonable diligence and promptness in representing a client.

2. Morris W. Thompson violated Arkansas Rule 8.4(d) when his failure to file a timely notice of appeal following the entry of the Order of Dismissal on March 31, 2006, resulted in his client's lawsuit being forever barred. 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 A, that MORRIS W. THOMPSON, Arkansas Bar ID No. 80145, be, and hereby is, REPRIMANDED, fined the sum of ONE THOUSAND DOLLARS ($1,000.00) and assessed costs in the amount of FIFTY DOLLARS ($50.00) for his conduct in this matter. The fine and costs assessed herein 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.

IT IS SO ORDERED.

ARKANSAS SUPREME COURT COMMITTEE ON
PROFESSIONAL CONDUCT - PANEL A

Steven Shults

Steve Shults, Chair, Panel A

Date: April 6, 2009