BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT
PANEL A

FILED
JAN 28 2010
LESLIE W. STEEN
CLERK

IN RE: MILDRED HAVARD HANSEN, Respondent
Arkansas Bar ID#87071
CPC Docket No. 2009-070

FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee by Chad Fason in an Affidavit dated June 8, 2009. The information related to the representation of Sally (Fason) Zahnen by Respondent in 2008.

Respondent was served with a formal complaint, supported by affidavit from Mr. Fason, on June 18, 2009. Ms. Hansen responded on July 9, 2009. After response was filed, the matter proceeded to ballot vote pursuant to the Arkansas Supreme Court Procedures Regulating Professional Conduct of Attorneys at Law. Following service of the ballot vote Findings and Order, Ms. Hansen timely requested a public hearing before a different Panel of the Committee on Professional Conduct. A public, de novo hearing was conducted before Panel A on Friday, January 15, 2010. All members of Panel A were present for the hearing.

The information before the Committee reflected that Sally Zahnen was the ex-wife of Chad Fason and they were involved in a visitation, custody, and child support matter. Mildred Havard Hansen of Little Rock was Sally Zahnen's attorney in the matter. Testimony presented at the hearing confirmed that Fason is a convicted felon who was on probation with the U.S. Probation Office at the time this matter was pending in 2008.

On May 19, 2008, Fason along with his attorney, Mildred Wineland, and Hansen along with her client, Fason's ex-wife, were before the Honorable Judge Alice Gray in Pulaski County

Circuit Court for a full day hearing on the matter. During this hearing, Hansen whispered to Fason, "I'll see you go back to federal prison." At that point Ms. Wineland advised the Court that Hansen had just threatened her client.

During the pendency of the action, Hansen submitted discovery requests to Fason. Upon receiving Fason's responses to the discovery requests, Hansen sent a letter, along with some of the discovery documents, to Fason's probation officer describing what Hansen considered probation violations. The U.S. Probation Office contacted Fason regarding the information submitted by Hansen and conducted an investigation. Upon being notified of the investigation, Wineland at the request of Fason, wrote a letter to the Honorable Judge James Moody with the U.S. District Court, Eastern District of Arkansas, regarding obtaining information sent to Fason's probation officer from Hansen, as the information was made part of his probation file, which was confidential and could not be viewed or released to anyone, including Fason, without a court order. Judge Moody entered an Order on September 2, 2008 ordering the U.S. Probation Office to provide any information or letters sent to the Probation Office since June 18, 2008, from the ex-wife or others "which attempts to sabotage his [Fason's] parole." Armed with this information, Fason's attorney, Wineland, filed a motion for a protective order in the visitation and support case in Circuit Court. A hearing was held on September 24, 2008, on the protective order request and Hansen's request for the Court to compel Fason to respond to some of the discovery requests.

At the hearing, Wineland objected to some of Hansen's discovery requests on the grounds that Hansen was using the information to disparage Fason and to get his probation revoked by giving the information to third parties. Upon hearing the actions taken by Hansen,

the Court admonished Hansen for her behavior. Dissatisfied with the actions of Hansen, the Court denied her requests for further discovery from Fason. The Order of Protection was granted and entered on October 10, 2008 .

Ms. Hansen admitted in her Response and to Panel A at the hearing that she had indeed made the statement on May 19, 2008, although not directly to Fason. She also testified that she did send some of the information she obtained in discovery to Fason's probation officer, however, she denied that any of the information she sent was inaccurate and/or incomplete.

Upon consideration of the formal complaint and attached exhibit materials, the response to it, other matters before it, the testimony of witness Mr. Chad Fason, Ms. Sally Zahnen, and Ms. Meredith Wineland, and testimony of Respondent, Ms. Hansen, and the Arkansas Rules of Professional Conduct, Panel A of the Arkansas Supreme Court Committee on Professional Conduct finds:

1. By a unanimous vote, that Ms. Hansen's conduct did not violate Rule 3.4(d) as alleged in the formal disciplinary complaint with CPC Docket No. 2009-070.

2. By a 5 - 2 vote, with Mr. Smith, Mr. Shults, Ms. Hodge, Ms. Herr, and Mr. Dumas voting that no violation occurred, and with Mr. Tafford and Mr. Pinson voting that a violation occurred, that Ms. Hansen's conduct did not violate Rule 4.1(a) as alleged in the formal disciplinary complaint with CPC Docket No. 2009-070.

3. By a 6 -1 vote, with Mr. Smith, Mr. Trafford, Ms. Hodge, Mr. Pinson, Ms. Herr, and Mr. Dumas voting that a violation occurred, and with Mr. Shults voting that no violation occurred, that Ms. Hansen's conduct did violate Rule 4.4(a) when On May 19, 2008, Ms. Hansen threatened Mr. Fason in court that she would see him go back to federal prison after he failed to

agree to maintain a Tuesday night visitation schedule. Rule 4.4(a) states that in representing a client, a lawyer shall not use means that have no substantial purpose other than to embarrass, delay, or burden a third person, or to use methods of obtaining evidence that violate the legal rights of such a person.

4. By a 5 - 2 vote, with Mr. Smith, Mr. Shults, Ms. Hodge, Ms. Herr, and Mr. Dumas voting that no violation occurred, and with Mr. Trafford and Mr. Pinson voting that a violation occurred, that Ms. Hansen's conduct did not violate Rule 4.4(a) as alleged in allegation C2 in the formal disciplinary complaint with CPC Docket No. 2009-070.

5. By a 5 - 2 vote, with Mr. Smith, Mr. Shults, Ms. Hodge, Ms. Herr, and Mr. Dumas voting that no violation occurred, and with Mr. Trafford and Mr. Pinson voting that a violation occurred, that Ms. Hansen's conduct did not violate Rule 8.4(c) as alleged in the formal disciplinary complaint with CPC Docket No. 2009-070.

6. By a 6 -1 vote, with Mr. Smith, Mr. Trafford, Ms. Hodge, Mr. Pinson, Ms. Herr, and Mr. Dumas voting that a violation occurred, and with Mr. Shultz voting that no violation occurred, that Ms. Hansen's conduct did violate Rule 8.4(d) when On May 19, 2008, Ms. Hansen threatened Mr. Fason in court that she would see him go back to federal prison after he failed to agree to maintain a Tuesday night visitation schedule. Rule 8.4(d) states that it is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice.

7. By a 4 - 3 vote, Mr. Smith, Mr. Shults, Ms. Herr, and Mr. Dumas voting that no violation occurred, and with Mr. Trafford, Mr. Pinson, and Ms. Hodge voting that a violation occurred, that Ms. Hansen's conduct did not violate Rule 8.4(d) as alleged in allegation E2 in the formal disciplinary complaint with CPC Docket No. 2009-070.

WHEREFORE, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct, acting through its authorized Panel A, that MILDRED HAVARD HANSEN, Arkansas Bar ID#87071, be, and hereby is, CAUTIONED for her conduct in this matter. Pursuant to Section 18. A. of the Procedures, Ms. Hansen is assessed the costs of this proceeding in the amount totaling FOUR HUNDRED TWO DOLLARS AND THIRTY CENTS ($402.30)(standard cost, transcript costs, court reporter fee, and witness subpoena fee). The costs assessed herein, totaling **$402.30**, 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 A

By: _____
T. Benton Smith, Chair, Panel A

Date: January 28, 2010