

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT
PANEL C

IN RE: DANA A. REECE
ARKANSAS BAR No. 87142
CPC DOCKET Nos. 2013-031, 2014-034, and 2014-038

FINDINGS AND ORDER

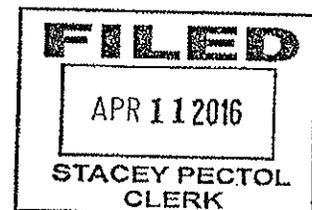
The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee in three separate matters. The first, CPC 2013-031, is based upon the grievance of Marvin Stanley Osborn. The second, CPC 2014-034, is based upon the grievance of Tyce James. The third, CPC 2014-038, is based upon the grievance of Dena Fair.

I. Introduction.

A *de novo* hearing in all three matters was scheduled for November 6, 2015, before Panel C. In CPC 2013-031, Panel C was comprised of Kathleen Bell, Shelia Brown, Richard Downing, Joseph Hickey, Kent Hirsch, Mark Limbird, and Michael Mayton. In CPC 2014-034 and 2014-038, Panel C was comprised of Kathleen Bell, Shelia Brown, Richard Downing, Joseph Hickey, Mark Limbird, Michael Mayton, and Laura Partlow.

II. Plea Offer.

Immediately prior to the hearing, Respondent and her attorney, Bob Estes, submitted a plea to the Panel. The plea consisted of Mr. Reece's admission to violation of certain rules in each of the three matters. In the *Osborn* matter, CPC 2013-031, Ms. Reece would admit to violation of Rules 1.3, 1.4(a)(3), and 1.16(d) of the Arkansas Rules of Professional Conduct. In the *James* matter, CPC 2014-034, Ms. Reece would admit to violation of Rules 1.3, 1.4(a)(3),



and 1.4(a)(4) of the Arkansas Rules of Professional Conduct. In the *Fair* matter, CPC No. 2014-038, Ms. Reece would admit to violation of Rules 1.15(d) and 3.4(c) of the Arkansas Rules of Professional Conduct. In exchange for the admission to the violation of the rules listed above, Ms. Reece would be suspended for a period of three months with the suspension stayed and that Ms. Reece would be placed on probation for a period of two years. Conditions for the two year probationary period would include, among other things, that Ms. Reece attend continuing legal education courses per year in addition to the minimum requirements of the Arkansas Board of Continuing Legal Education; that Ms. Reece make payment of all costs, fines and restitution currently due and owing to the Office of Professional Conduct; and that Ms. Reece obtain a lawyer to supervise, monitor, and assist her to fulfill the conditions of probation. Ms. Reece would pay the costs of the hearing, including costs associated with these proceedings, to include the costs for Panel members' attendance, the attendance of witnesses, and the attendance of the court reporter.

The Panels took the matter into executive session to deliberate on the plea submitted to it. Following deliberation, the Panels announced their decisions to accept the plea as submitted. The decision was not unanimous in any of the three matters. In the *Osborn* case, CPC 2013-031, the vote was 4-3 with Panel members Bell, Hickey, Limbird, and Mayton voting to accept the plea proposal and Panel members Brown, Downing, and Hirsch voting to reject the proposal. In the *James* case, CPC 2014-034, the vote was 5-2 with Bell, Hickey, Limbird, Mayton, and Partlow voting to accept the plea proposal and Panel members Brown and Downing to reject the proposal. In the *Fair* case, CPC 2014-038, the vote was 5-2 with Bell, Hickey, Limbird, Mayton, and Partlow voting to accept the plea proposal and Panel members Brown and Downing voting to

reject the proposal.

III. Facts and Rule Violations.

A. *Stanley Osborn, CPC 2013-013*

Stanley Osborn had been charged with burglary and theft in 2000. Mr. Osborn entered a plea of guilty and was placed on probation for a period of forty-eight months. Mr. Osborn paid the fees, costs, and restitution as ordered and was granted early release from probation. In 2001, Mr. Osborn filed a Petition to Seal the record in the case and the petition was granted on November 8, 2001. In 2009, Mr. Osborn applied for a concealed carry permit but his application was rejected because of the burglary and theft convictions. Mr. Osborn filed a *pro se* request for a pardon with the Governor but the request was not ruled upon and, therefore, effectively denied. Mr. Osborn's wife discovered Ms. Reece's website and suggested that Mr. Osborn schedule an appointment with her. Mr. Osborn met with Ms. Reece on May 26, 2011. Mr. Reece agreed to represent Mr. Osborn for the sum of Five Thousand Dollars (\$5,000.00) with Two Thousand Five Hundred (\$2,500.00) due on the date of hiring with payments of Four Hundred Dollars (\$400.00) per month each month thereafter. Mr. Osborn paid the fees as agreed. Mr. Osborn made contact with Ms. Reece in September 2011 about the status of his matter. Mr. Reece advised that she would provide him with documents within the week. Mr. Osborn did not receive the documents and placed calls to Ms. Reece. There was no response. In April 2012, Mr. Osborn notified Ms. Reece that her services were no longer needed and directed her to return the money she received from him. Following service of the formal complaint and the initial ballot vote decision, Ms. Reece provided Mr. Osborn with restitution of Five Thousand Dollars (\$5,000.00).

Ms. Reece's conduct violated Rule 1.3 when she failed to promptly provide Mr. Osborn with an application for pardon from May 2011 when she was employed by him until after Mr. Osborn terminated her representation of him in April 2012. Rule 1.3 required that a lawyer act with reasonable diligence and promptness in representing a client.

Ms. Reece's conduct violated Rule 1.4(a)(3) when she failed to respond to requests for information from Mr. Osborn about the status of his matter. Rule 1.4(a)(3) requires that a lawyer keep the client reasonably informed about the status of the matter.

Ms. Reece's conduct violated Rule 1.16(d) when she was notified that her services as Mr. Osborn's attorney were no longer needed and she failed to return any advance payment of fee or expense that was not earned or incurred and when she failed to return papers and property to which Mr. Osborn was entitled. Rule 1.16(d) requires that upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interest, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee or expense that has not been earned or incurred.

B. Tyce James, CPC 2014-034

Tyce James was a party to a divorce action filed in Pulaski County Circuit Court. Ms. Reece had represented Mr. James and obtained the divorce and custody of the parties' children for Mr. James in 2010. Later in 2010, Ms. James filed for change of custody and custody was given to Ms. James. On August 24, 2012, Mr. James went to Ms. Reece to discuss representation on new issues related to visitation. Ms. Reece agreed to represent Mr. James and Mr. James paid Ms. Reece One Thousand Six Hundred Dollars (\$1,600.00) to pursue a contempt action against

Ms. James. On August 30, Ms. Reece contacted Mr. James and told him she needed a loan of Three Hundred Dollars (\$300.00). Mr. James stopped by Ms. Reece's office and provided her with the Three Hundred Dollars (\$300.00). Mr. James had not heard from Ms. Reece by February 13, 2013, and nothing had been filed on his behalf in Pulaski County Circuit Court. Mr. James filed suit against Ms. Reece in Little Rock District Court. Mr. Reece entered into a Consent Judgment on June 4, 2013, wherein she agreed to pay Mr. James Five Hundred Dollars (\$500.00) on that day and she would make payments on the remaining Eleven Hundred Dollars (\$1,100.00). Ms. Reece failed to make any other payments. Following service of the formal complaint, Ms. Reece provided Mr. James with the remaining Eleven Hundred Dollars (\$1,100.00).

Ms. Reece's conduct violated Rule 1.3 when she was employed to represent Tyce James in a contempt matter but nothing was ever filed by her on Mr. James' behalf. Rule 1.3 requires that a lawyer act with reasonable diligence and promptness in representing a client.

Ms. Reece's conduct violated Rule 1.4(a)(3) when, after she was hired to represent Tyce James, she failed to keep Mr. James informed about the status of his case. Rule 1.4(a)(3) states that a lawyer shall keep the client reasonably informed about the status of the matter.

Ms. Reece's conduct violated Rule 1.4(a)(4) when, after she was employed to represent Tyce James, she failed to respond to requests from Mr. James about the status of his case. Rule 1.4(a)(4) states that a lawyer promptly comply with reasonable requests for information.

C. Dena Fair, CPC 2013-038

Dena Fair was a party in a divorce case in Pulaski County Circuit Court. Ms. Fair was represented by counsel in the divorce case but in 2011 sought other counsel. Ms. Fair discovered

Ms. Reece through her website, contacted her, and scheduled an appointment for February 15, 2011. Ms. Fair employed Ms. Reece on March 8, 2011, when she paid Ms. Reece Three Thousand and Fifty Dollars (\$3,050.00) for the representation. Ms. Fair provided Ms. Reece with copies of the divorce decree, modifications to the divorce decree, trust fund documentation, and other documents relevant to the representation. On April 14, 2011, Ms. Reece filed a Motion for Contempt and Motion to Modify Decree on behalf of Ms. Fair. A hearing was set for May 31, 2011. On May 3, 2011, Ms. Fair met with Ms. Reece to discuss the upcoming hearing. Ms. Reece did not have Ms. Fair's file with her during the meeting and could not recall much of what had been discussed at the previous meeting. Following the meeting, Ms. Fair sent a letter to Ms. Reece terminating the representation, requesting an itemized accounting of fees, and a return of any unused portion of the retainer fee paid. Ms. Reece failed to respond to the request. Ms. Fair's new counsel filed a motion to substitute counsel and an order was entered on May 24, 2011, directing Ms. Reece to provide an accounting of the fees paid to her and the return of the file within ten days. Ms. Reece did not respond to the order. Ms. Fair's attorney sent a letter to Ms. Reece and again requested an accounting, a refund, and a return of documents previously provided. Again, there was no response from Ms. Reece.

Ms. Reece's conduct violated Rule 1.16(d) when she was terminated as attorney for Dena Fair and she failed to provide an accounting and return any unused portion of the fees paid. Further, Ms. Reece failed to provide an accounting and return any unused portion of fees paid when she was contacted by Ms. Fair's new counsel. Rule 1.16(d) provides that, upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of

other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee or expense that has not been earned or incurred.

Ms. Reece's conduct violated Rule 3.4(c) when she failed to comply with an order of the Pulaski County Circuit Court directing her to provide Ms. Fair with an accounting of the fees paid to her and to provide Ms. Fair with a copy of her file. Rule 3.4(c) states that a lawyer shall not knowingly disobey an obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists.

IV. Sanction

WHEREFORE, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct, acting through its authorized Panel C, that DANA A. REECE, Arkansas Bar No. 87142, be, and hereby is SUSPENDED FOR A PERIOD OF THREE MONTHS, STAYED. In addition, Ms. Reece shall be placed on PROBATION for a period of TWENTY-FOUR MONTHS with the terms and conditions set out in a separate order of probation. Said terms and conditions of probation are made a part of these Findings and Orders as if set out verbatim. Ms. Reece is ordered to pay administrative costs of Fifty Dollars (\$50.00) in each of the three cases and ordered to pay costs of the proceeding (Panel member expenses, witness expenses, and court reporter expenses) totaling ONE THOUSAND THREE HUNDRED DOLLARS (\$1,300.00).

IT IS SO ORDERED.



Kathleen Bell
Panel C Chair