

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT
PANEL B

IN RE: Tony Thurman, Respondent
 Arkansas Bar ID#99037
 CPC Docket No. 2003-041

FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee by Victor Prentice in an Affidavit dated April 4, 2003. The information related to the representation of Reverend Prentice by Respondent.

On April 21, 2003, Respondent was served with a formal complaint, supported by the affidavit from Rev. Prentice. Respondent failed to file a response to the complaint, which failure to timely respond, pursuant to Section 9.C(4) of the Procedures, constitutes an admission of the factual allegations of the formal complaint and extinguishes Respondent's right to a public hearing.

The information before the Committee demonstrated that during late December 2000 or early January 2001, Reverend Prentice hired Respondent, Tony Thurman, an attorney practicing primarily in Mountain View, Arkansas, to represent his church and another church in a civil matter. Mr. Thurman was paid \$700 to initiate the filing of a lawsuit for Rev. Prentice, and did not request any additional fees at that time. Rev. Prentice explained that the purpose of the lawsuit was to stop the attacks that the two churches had been suffering online by two (2) individuals who had infringed upon the churches' copyrights, photographs, documents and registered service mark. When Mr. Thurman accepted representation of the two churches, he explained that he would have to be admitted to federal court before he could file an action on behalf of the churches. Mr. Thurman apparently never took any action to be admitted in federal court and never filed a lawsuit on behalf of the churches, and, in fact, never took any action on behalf of the churches.

Because Mr. Thurman did not file a lawsuit or take any action on behalf of the churches, the pastor of the other church hired another attorney to do so on behalf of his church and Rev. Prentice's church. The lawsuit

was filed in Colorado and was dismissed for lack of jurisdiction. Another attorney licensed in Arkansas was then hired to assist Rev. Prentice in the legal matters.

While all of this activity was occurring, Rev. Prentice attempted to contact Mr. Thurman at his office a number of times but was unable to speak with Mr. Thurman, and reached the answering machine most of the times he called the office. On a few occasions, Rev. Prentice spoke with one of Mr. Thurman's daughters and left a message for Mr. Thurman, but the messages have not been returned. Rev. Prentice also sent e-mail messages to Mr. Thurman in a futile attempt to communicate with him, requesting return of the fees and of the file documentation given to Mr. Thurman at the outset of representation. Mr. Thurman failed entirely to respond to these e-mail messages.

Upon consideration of the formal complaint and attached exhibit materials, 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:

1. That Mr. Thurman's conduct violated Model Rule 1.2(a) since despite requests by his client Victor Prentice, to take action to become admitted in federal court and to then file a lawsuit on his behalf, Mr. Thurman never took any action to accomplish these matters. Model Rule 1.2(a) requires, in pertinent part, that a lawyer abide by a client's decision concerning the objectives of representation and consult with the client as to the means by which they are to be pursued.
2. That Mr. Thurman's conduct violated Model Rule 1.3 when he failed to take any action on behalf of Victor Prentice as requested when Mr. Thurman was hired in late 2000 or early 2001. Model Rule 1.3 requires that a lawyer act with reasonable diligence and promptness in representing a client.
3. That Mr. Thurman's conduct violated Model Rule 1.4(a) since despite numerous requests for information and attempts to contact him by Victor Prentice, Mr. Thurman has failed to respond. Model Rule 1.4(a) requires that a lawyer keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.

4. That Mr. Thurman's conduct violated Model Rule 1.16(d) because he has taken no action since his representation of Victor Prentice was terminated to return to him the advanced payment of fee which was not earned or the paperwork that was left with him in connection with the legal matter he was to pursue. Model Rule 1.16(d) requires, in pertinent part, that upon termination of representation, a lawyer take steps to the extent reasonably practicable to protect a client's interests, such as surrendering papers and property to which the client is entitled and refunding any advance payment of fee that has not been earned.

5. That Mr. Thurman's conduct violated Model Rule 3.2 because his failure to act as requested by Victor Prentice created an unnecessary delay in his desired lawsuit. Model Rule 3.2 requires that a lawyer make reasonable efforts to expedite litigation consistent with the interest of the client.

WHEREFORE, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct, acting through its authorized Panel B, that Tony Thurman, Arkansas Bar ID # 99037, be, and hereby is, **SUSPENDED FOR A PERIOD OF SIX (6) MONTHS** for his conduct in this matter. The sanction imposed was enhanced pursuant to Section 10(C)(2) of the Procedures of the Arkansas Supreme Court Regulating Professional Conduct of Attorneys at Law based upon Mr. Thurman's failure to respond to the formal disciplinary complaint. Mr. Thurman is also ordered to pay restitution in the amount of \$700 pursuant to Section 18.C. of the Procedures. In addition, for failing to respond to the formal complaint, the Committee, pursuant to Section 9C(3) and Section 18B of the Procedures, imposes a fine of \$1500. Mr. Thurman shall also pay costs in the amount of \$50 in accordance with Section 18.A. of the Procedures. The restitution, fine and costs assessed herein, totaling \$2250, shall be payable by cashier's check or money order payable to the "Clerk, Arkansas Supreme Court" delivered to the Office of Professional Conduct with 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: _____

John L. Rush, Chair, Panel B

Date: _____