

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

IN RE: ANNE ORSI SMITH

ARKANSAS BAR ID#88163

CPC DOCKET NO. 2004-006

FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee by the Honorable Joyce Williams Warren, Pulaski County Circuit Court Judge. The information related to the representation of Tennile Whittamore by Anne Orsi Smith in 2003.

On January 20, 2004, Anne Orsi Smith was served with a formal complaint by certified mail, restricted delivery, return receipt requested. Ms. Smith failed to file a response to the complaint within twenty (20) days of receipt of the formal complaint. Pursuant to Section 9.C(4) of the Procedures, the failure to timely respond constitutes an admission of the factual allegations of the formal complaint and extinguishes Respondent's right to a public hearing.

Judge Warren terminated the parental rights of Tennile Whittamore. Ms. Whittamore's attorney during the parental termination case did not want to pursue the appeal. Judge Warren entered an Order appointing Ms. Smith to represent Ms. Whittamore for the purposes of appeal only.

On June 10, 2003, Ms. Smith filed a timely notice of appeal. The record of the lower court proceedings was due to be filed with the Arkansas Supreme Court within ninety (90) days of the filing of the first notice of appeal. As the notice of appeal was filed on June 10, 2003, the record of the lower court proceedings were due to be filed on or before September 8, 2003. The transcript was prepared by the court reporter and provided to Ms. Smith in July 2003. The record was not lodged on or before September 8, 2003.

From conversations the Court had with Ms. Whittamore and Ms. Smith, the Court was informed that Ms. Smith told Ms. Whittamore in late August that she was going to dismiss the appeal. The appeal was not dismissed nor was the record lodged with the Arkansas Supreme Court. Ms. Whittamore stated that she did not

speaking to Ms. Smith until late September or early October and it was then that she learned Ms. Smith was not going to pursue the appeal.

Upon consideration of the formal complaint, the attached exhibit materials, and the Arkansas Model Rules of Professional Conduct, Panel A of the Arkansas Supreme Court Committee on Professional Conduct finds:

1. That Ms. Smith violated Model Rule 1.1 when, despite being appointed to represent Tennile Whittamore on appeal, she failed to pursue the appeal. Model Rule 1.1 requires that a lawyer provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

2. That Ms. Smith violated Model Rule 1.3 when she failed to timely lodge the record of the lower court proceedings with the Arkansas Supreme Court Clerk on behalf of her client, Tennile Whittamore. Model Rule 1.3 requires a lawyer to act with reasonable diligence and promptness in representing a client.

3. That Ms. Smith violated Model Rule 3.4(c) when, despite being appointed by the Court to represent Tennile Whittamore on appeal, she failed to undertake the obligation under the Order of June 10, 2003, to pursue the appeal. Model Rule 3.4(c) requires, in pertinent part, that a lawyer not knowingly disobey an obligation under the rules of a tribunal.

4. That Ms. Smith violated Model Rule 8.4(d) when her failure to perfect an appeal on behalf of her client, Tennile Whittamore, resulted in a delay in the timely and orderly resolution of appellate proceedings. Model 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 ANNE ORSI SMITH, Arkansas Bar ID# 88163, be, and hereby is, REPRIMANDED and assessed costs in the amount of FIFTY DOLLARS (\$50.00) for her conduct in this matter. For her failure to respond to the formal complaint, ANNE ORSI SMITH, Arkansas Bar ID#88163, is, pursuant to Section 9.C(1) and (3), REPRIMANDED and fined the sum of ONE THOUSAND

DOLLARS (\$1,000.00) for her 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.

ARKANSAS SUPREME COURT COMMITTEE ON
PROFESSIONAL CONDUCT - PANEL A

By: _____

Gwendolyn D. Hodge, Chair, Panel A

Date: _____