

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT
PANEL B

IN RE: WILLIAM M. HOWARD, JR.
ARKANSAS BAR ID#87087
CPC DOCKET NO. 2005-079

FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based upon information related to the representation of Michael Smith by William M. Howard, Jr., Attorney at Law, Pine Bluff, Arkansas in 2004 and 2005. Mr. Howard represented Mr. Smith in the case of Michael Smith v. State of Arkansas, CR 2004-685.

Mr. Howard represented Michael Smith in an appeal from the Northern District of Arkansas County from a conviction on a charge of battery. On July 2, 2004, Mr. Howard filed a Motion to Supplement the Record wherein he stated that an Order was filed with the Arkansas County Circuit Clerk and was not made part of the transcript which was filed with Arkansas Supreme Court Clerk on June 18, 2004. Mr. Howard stated that the transcript contained an Order denying a Motion to Reconsider but the transcript did not contain the Motion to Reconsider.

On July 27, 2004, Mr. Howard filed a Motion for Extension of Time to file a brief in the matter. In his motion, Mr. Howard stated that he had not been able to complete the brief due to his caseload and continued research of appealable issues. The Arkansas Court of Appeals granted the motion and the brief was due to be filed on Mr. Smith's behalf on August 27, 2004.

No brief was filed on or before August 27, 2004.

On April 15, 2005, the Attorney General for the State of Arkansas filed a Motion to Dismiss the appeal of Michael Smith as the record was not supplemented and no brief had been filed in the matter. On May 11, 2005, the Arkansas Court of Appeals granted the State's motion and Mr. Smith's appeal was dismissed.

Mr. Howard admitted that he did not file a supplemental record after receiving permission to do so. Mr. Howard asserted that he did not supplement the record as he was advised by the Arkansas County Circuit Clerk that there was nothing to supplement as there was no Motion to Reconsider filed of record with the Arkansas County Circuit Clerk.

Mr. Howard stated in his response to the Formal Complaint that Mr. Smith failed to take care of his monetary obligation which was a direct cause of Mr. Howard's failure to perfect the appeal. As a result, Mr. Howard asserted, the Panel should understand that Mr. Smith was not sincere in his appeal.

Upon consideration of the formal complaint and attached exhibit materials, the response to it, 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 William M. Howard, Jr., violated Model Rule 1.3 when he failed to file in a timely manner with the Arkansas Court of Appeals a supplemental record of the lower court proceedings on behalf of Michael Smith, his client, and when he failed to file a timely brief with the Arkansas Court of Appeals on behalf of Michael Smith, his client. Model Rule 1.3 requires that a lawyer act with reasonable diligence and promptness in representing a client.

2. That William M. Howard, Jr., violated Model Rule 8.4(d) when his failure to file a supplemental record or brief on behalf of his client, Michael Smith, with the Arkansas Court of Appeals in a timely manner resulted in dismissal of his client's 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 B, that WILLIAM M. HOWARD, JR., Arkansas Bar ID# 87087, be, and hereby is, REPRIMANDED; fined the sum of FIVE HUNDRED DOLLARS (\$500.00); 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.

ARKANSAS SUPREME COURT COMMITTEE ON
PROFESSIONAL CONDUCT - PANEL B

By: _____

J. Michael Cogbill, Chairman

Date: _____