

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

FILED

IN RE: DONALD W. COLSON, Respondent
Arkansas Bar ID#2005166
CPC Docket No. 2012-021

SEP 05 2012

**LESLIE W. STEEN
CLERK**

FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee by Shawn Skelton in an Affidavit dated March 23, 2012. The information related to Mr. Skelton having hired Donald Colson, of Bauxite, Arkansas, to represent him in a paternity / visitation / support matter on September 22, 2010.

On April 10, 2012, Respondent was served with a formal complaint, supported by affidavit from Shawn Skelton. 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 Panel reflected that Donald W. Colson, an attorney practicing primarily in Benton, Saline County, Arkansas, was hired by Mr. Skelton to represent him in a paternity / visitation / child support matter, which Mr. Skelton wished to pursue in order to obtain routine visitation with his minor child. Although Mr. Colson accepted payment of \$650 from Mr. Skelton on September 22, 2010, to begin the representation, Mr. Colson has made no contact with Mr. Skelton since accepting the funds.

After receiving the funds, Mr. Colson ceased to communicate with Mr. Skelton which has led to Mr. Skelton being unable to pursue the matter with regard to his minor child as he wished

to do. Mr. Skelton was unable to hire new counsel because he did not have the funds to do so.

In the middle of January 2011, Mr. Skelton went to Mr. Colson's office to pay the balance of what he believed he owed Mr. Colson. The office was not open. Mr. Skelton attempted to call that day as well but the voice message box was full so he could not leave a message for Mr. Colson. Mr. Skelton went to Mr. Colson's office off and on for the next month and a half. Mr. Skelton found mail piled up and shut off notices on the office door. To date, Mr. Colson has not contacted Mr. Skelton in any fashion since receiving the \$650 from Mr. Skelton.

There is no action filed for Mr. Skelton in Saline County Circuit Court because Mr. Colson never filed one for him after being hired to do so.

After Mr. Skelton's grievance was received in the Office of Professional Conduct, Mr. Colson was contacted by way of letter dated October 12, 2011, asking for information with regard to the matter. No response was received from Mr. Colson although the letter was sent to him at his address of record maintained with the Arkansas Supreme Court Clerk. On November 22, 2011, the Executive Director sent Mr. Colson an e-mail seeking information about the Skelton matter. There was no response to that contact either

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

1. Mr. Colson's conduct violated Rule 1.3, he took no action on behalf of Mr. Skelton after being paid \$650 on September 22, 2010, to undertake representation of Mr. Skelton in a paternity / visitation / support matter with regard to Mr. Skelton's minor child. Rule 1.3 requires that a lawyer act with reasonable diligence and promptness in representing a client.

2. Mr. Colson's conduct violated Rule 1.4(a)(4), when he failed to comply with requests for information left for him by Mr. Skelton after September 22, 2010, when Mr. Skelton paid the \$650 Mr. Colson requested in order to undertake representation of him with regard to Mr. Skelton's minor child. Rule 1.4(a)(4) requires that a lawyer promptly comply with reasonable requests for information.

3. Mr. Colson's conduct violated Rule 1.16(d), because when Mr. Colson decided to not represent Mr. Skelton, as the facts clearly indicate he has decided, Mr. Colson did not give notice to Mr. Skelton nor did he return the advanced payment of fee to Mr. Skelton. Rule 1.16(d) requires that upon termination of representation, a lawyer take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client and refunding any advance payment of fee or expense that has not been earned or incurred.

4. Mr. Colson's conduct violated Rule 8.1(b), when Mr. Colson failed to respond to the request for information sent to him from the Office of Professional Conduct on October 22, 2011, to his address of record maintained by the Arkansas Supreme Court Clerk's office and when he to respond to the request for information sent to him by e-mail from the Office of Professional Conduct on November 22, 2011. Rule 8.1(b) requires, in pertinent part, that a lawyer in connection with a disciplinary attorney disciplinary shall not knowingly fail to respond to a lawful demand for information from a disciplinary authority.

5. Mr. Colson's conduct violated Rule 8.4(c), because Mr. Colson accepted \$650 from Shawn Skelton to begin representation of Mr. Skelton in a paternity / visitation / support matter with regard to Mr. Skelton's minor child but took no action in that regard, Mr. Colson merely took the money and provided no services. Rule 8.4(c) requires that a lawyer not engage

in conduct involving dishonesty, fraud, deceit or misrepresentation.

WHEREFORE, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct, acting through its authorized Panel A, that the law license of DONALD W. COLSON, Arkansas Bar ID# 2005166, be, and hereby is, SUSPENDED FOR A PERIOD OF THIRTY-SIX MONTHS for Mr. Colson's conduct in this matter. The suspension shall become effective on the date this Findings and Order is filed of record with the Clerk of the Arkansas Supreme Court. Mr. Colson is also ordered to make restitution, pursuant to Section 18.C of the Procedures, for the benefit of Mr. Skelton in the amount of \$650. In imposing the sanction, the Committee specifically considered Mr. Colson's prior disciplinary history. A separate sanction of a Reprimand for Mr. Colson's failure to respond is also imposed by the Committee. Mr. Colson is assessed \$50 for the costs of the proceeding pursuant to Section 18.A of the Procedures. The restitution and costs assessed herein, totaling \$700, 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: Steven Shults
Steven Shults, Chair, Panel A

Date: July 30, 2012