

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT
PANEL A

IN RE: **A. JEFF MOBLEY**
 ARKANSAS BAR ID #52017
 CPC Docket No. 2003-189

FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from information obtained by the Committee from the file and orders in *Jerry Garretsen and Lisa Garretsen vs. John E. Johnson and Sharon Johnson*, No. CA 03-835 (Court of Appeals). The information related to the representation of the Garretsens by Respondent Mobley in 2003. On December 17, 2003, Respondent was served with a formal complaint and he filed a timely response.

On November 20, 2003, the Arkansas Supreme Court denied a Motion for Rule on the Clerk in the matter of *Jerry Garretsen and Lisa Garretsen vs. John E. Johnson and Sharon Johnson*, No. CA 03-835 (Court of Appeals). Jeff Mobley, an attorney practicing primarily in Russellville, Arkansas, represented the Garretsens in their attempt to appeal the decision of the Circuit Court of Yell County, Arkansas, Northern District, in Case No. CV2002-110.

The factual background available to the Committee indicates that Jeff Mobley, as a partner in the Mobley Law Firm, P.A., along with another attorney named Edward Coe, Jr., who was “of counsel” to Mobley’s firm, were representing the Garretsens in a dispute with the Johnsons over a piece of property that contained a private club. On behalf of his clients, Mobley deposited \$100,000.00 from what appears to be his firm trust account into the court registry in this case on December 27, 2002. On March 25, 2003, Mr. Coe, for the Mobley Law Firm, P.A., and over the names of both Coe and Mobley, filed the Notice of Appeal for the Garretsens. Unless an extension was granted, the ninety (90) days allowed for filing the record on appeal would end on or about June 23, 2003. By Order filed April 11, 2003, the trial court ordered Mobley’s clients to post a supersedeas bond sufficient to pay \$143,153.85 to stay the sale of the stock of Rambler’s Hall until his clients’ appeal could be decided. Edward Coe apparently withdrew from his “Of Counsel” arrangement with the Mobley law Firm, P.A. effective May 27, 2003. Thereafter, only Mobley’s name appears as counsel on pleading filed for the Garretsens in the case and the appeal.

On July 11, 2003, several weeks after the June 23, 2003, deadline, Mobley signed and caused to be filed a Petition for Extension of Time to File Record in this case, but in the District Court of Yell County, and not in the Yell County Circuit Court, where the case was pending. Various motions were filed in the Arkansas Court of Appeals under case No. CA 03-835. That Court sought to certify the case to the Arkansas Supreme Court on October 7, 2003, but the Clerk's note indicates the certification was denied October 16, 2003. On October 22, 2003, the Court of Appeals issued its Law or Chancery Mandate in this appeal, making the rulings cited therein. On October 23, 2003, the Clerk of the Supreme Court wrote Mobley advising him that since the Appellees' motion to dismiss his clients' appeal was denied by the Court of Appeals he needed to file a motion for rule on the clerk regarding the record tendered by his firm on August 1, 2003. Mr. Mobley filed a Motion for Rule on the Clerk on October 27, 2003. Appellees filed their response to his motion on October 28, 2003, stating that no order extending the ninety (90) day deadline to timely file the record was ever entered. On October 30, 2003, Mobley filed a reply to Appellees' response. On November 20, 2003, the Arkansas Supreme Court issued its Law or Chancery Mandate, denying Mobley's motion for rule on the Clerk and granting the motion to dismiss the 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 A of the Arkansas Supreme Court Committee on Professional Conduct finds:

A. Mr. Mobley's conduct violated Model Rule 1.1 in that he was not thorough enough in his representation of the Garretsens to make certain that the Petition for Extension of Time to File Record which he signed was filed in the correct court, nor did he apparently obtain and file a proper order extending the time to file record from any court. Model Rule 1.1 requires that a lawyer provide competent representation to a client, including the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

B. Mr. Mobley's conduct violated Model Rule 1.3 in that he failed to be certain that an Order extending the time to file the transcript on his clients' appeal was entered of record within ninety (90) days of the Notice of Appeal filed in the matter by his law firm. Model Rule 1.3 requires that a lawyer act with reasonable diligence and promptness in representing a client.

C. Mr. Mobley's conduct violated Model Rule 3.4(c) in that he failed to adhere to the requirements of Rule 5(a) of the Rules of Appellate Procedure - Civil when he failed to be certain that an Order extending the time to file the record on his clients' appeal was entered within ninety (90) days of the filing of their Notice of Appeal. Model Rule 3.4(c) requires that a lawyer 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.

D. Mr. Mobley's conduct violated Model Rule 8.4(d) in that his failure to be certain that an order extending the time to file his clients' record on appeal was timely entered resulted in his clients being denied their right to appellate review of the Yell County Circuit Court's decision in a case in which they had a substantial financial interest. 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 **A. Jeff Mobley**, Arkansas Bar ID# 52017, be, and hereby is, **cautioned** for his conduct in this matter, and assessed \$50.00 costs. The 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: _____