

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT

PANEL A

IN RE: JAN ROSE CROMWELL, Respondent

Arkansas Bar ID#75024

CPC Docket No. 2001-095

FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee by Chancery Judge Jim Spears of Fort Smith on February 12, 2001. The information related to the representation of a client in an adoption case in his court on February 7, 2001, and other alleged acts by Respondent that date.

On October 25, 2001, Respondent was served with a formal complaint, supported by Judge Spears' letter. The information from Judge Spears demonstrates the following:

At 1:30 p.m. on February 7, 2001, Respondent was scheduled to appear in Judge Spear's Courtroom on a petition to set aside an adoption. Respondent failed to appear at the scheduled time. Respondent had previously been in Judge Spears' Courtroom earlier that same day. At 1:50 p.m., Respondent called Judge Spears and informed him that she was a prisoner in her residence, as someone had stacked logs in front of the front and back doors of the home so as to prevent Respondent from leaving. Respondent mentioned the Alamo Foundation, which was a party in the case, and that Respondent was frightened. Judge Spears immediately dispatched his bailiff, Deputy Don Jones of the Sebastian County Sheriff's Office, to Respondent's home. Attached to Judge Spears' Letter is Deputy Jones' statement of what he observed on his arrival at Respondent home in Fort Smith. On driving by, he noted Respondent was outside her home walking back and forth in her drive way. As he arrived, Respondent flagged a cab and began talk to the cab driver. Upon noticing the Deputy, Respondent let the cab go and flagged the deputy into her driveway, where she entered the Deputy's vehicle. When Deputy Jones inquired as to the location of the logs, Respondent stated she had moved them to the side of the house. Deputy Jones then went to the side of the house and discover a stack of neatly stacked firewood. Deputy Jones noted that the firewood was of sufficient size that it would have been difficult for Respondent to stack. Respondent then told Deputy Jones she had pushed the logs out of the way, but the Deputy noted that there were no scuff or drag marks in front of the door. Deputy Jones then took Respondent to Judge Spears' Courtroom. At 2:40 p.m., Judge Spears requested a statement from her on the record in open court. Attached to Judge Spears' letter is the transcript of that colloquy. Respondent repeated her story of the logs blocking the doors to her home to Judge Spears.

In her response, Respondent stated her morning appearance before Judge Spears for an uncontested divorce was uneventful and involved direct dialog with him. She then had a meeting with her out-of-state client in preparation for the afternoon hearing in the adoption matter, and denies she was unprepared for it. Respondent admitted she timely failed to appear for the afternoon hearing, but attributed this to lack of sleep from case preparation and the client meeting before court. Respondent stated she must have become disoriented in her conversation to have made the statements reported by the judge and made in her contact with the bailiff dispatched to her residence to check the situation. Respondent apologized to Judge Spears and the Committee for any trouble she had caused either.

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. Respondent's conduct violated Model Rule 1.3 when she failed to appear at the

scheduled time for the hearing of her client's petition to set aside an adoption in a case set for

hearing before Judge Spears. Model Rule 1.3 requires that a lawyer act with reasonable diligence and promptness in representing a client.

B. Respondent's conduct violated Model Rule 8.4(d) when, (1) based upon her failure to appear for the scheduled hearing the trial court was required to delay the hearing and send its bailiff to investigate and transport her to the hearing; (2) due to her failure to appear for the scheduled hearing, the trial court was required to conduct a hearing to take her statement as to why she did not appear at the appointed time for the hearing; and (3) in her presentation of the case before Judge Spears, it was obvious to the trial judge that she was unprepared to effectively present her client's case, thereby delaying a prepared and meaningful hearing of the case. 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 JAN ROSE CROMWELL, Arkansas Bar ID# 75024, be, and hereby is, REPRIMANDED for her conduct in this matter.

ARKANSAS SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT - PANEL A

By: _____

Win A. Trafford, Chair, Panel A

Date: _____