

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT

PANEL A

IN RE: FRANK E. SHAW

Arkansas Bar ID #79255

CPC Docket No. 2003-180

FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee by referral by the Arkansas Supreme Court in No. CR03-1197, in *James Ricky Mauldin v. State of Arkansas*, on November 13, 2003. The information related to the representation of James Ricky Mauldin by Respondent Shaw, an attorney practicing primarily in Faulkner County, Arkansas, in 2003. On December 8, 2003, Respondent was served with a formal complaint and he filed a timely response.

Mr. Shaw represented Mr. Mauldin in Faulkner Circuit Court, and a judgment and commitment was entered against Mauldin. A notice of appeal was timely filed. Mr. Shaw failed to timely file the record and failed to obtain any order extending the time for him to file the record. The record was filed eight (8) days late. Mr. Shaw's motion for rule on the clerk was granted by Per Curiam Order on November 13, 2003, and the record was ordered to be accepted for filing by the Clerk and the appeal was allowed. Mr. Shaw responded to the complaint, stating his calendaring mistake caused him to be late in tendering the record.

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. Shaw's conduct violated Model Rule 1.3 in that he failed to timely file his client's appeal record with the Clerk, filing the transcript eight (8) days late due to his mistake in calendaring the due date, requiring him to file a motion for rule on the clerk to save his client's right to an appeal. Model Rule 1.3 requires that a lawyer shall act with reasonable diligence and promptness in representing a client.

B. Mr. Shaw's conduct violated Model Rule 8.4(d) in that he failed to timely file his client's appeal record, causing the Supreme Court to have to spend additional time and resources in considering and acting upon his Motion for Rule on the Clerk, also thereby also delaying consideration of his client's appeal. Model Rule 8.4(d) requires that a lawyer shall 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 **Frank E. Shaw**, Arkansas Bar ID# 79255, be, and hereby is, **cautioned** for his conduct in this matter, fined \$1,000.00, and assessed \$50.00 costs. 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: _____