

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT

PANEL B

IN RE: TOD C. BASSETT, Respondent
 Arkansas Bar ID#80007
 CPC Docket No. 2004-160

CONSENT FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from information obtained through the Orders of the Arkansas Court of Appeals. The information related to the representation of Washington Regional Medical Center by Respondent in 2004.

On October 27, 2004, Respondent was served with a formal complaint, supported by Orders of the Arkansas Court of Appeals. A response was filed. The Respondent and the Executive Director negotiated a discipline by consent proposal, which was submitted to this Panel.

The information before the Panel revealed that Tod C. Bassett, an attorney practicing primarily in Fayetteville, Washington County, Arkansas, represented Washington Regional Medical Center in an attempt to appeal the decision in the lower court matter from the Worker's Compensation Commission in case number E909360.

On May 14, 2003, an Order was entered in the Worker's Compensation Commission which Mr. Bassett's client, Washington Regional Medical Center, wished to appeal to the Arkansas Court of Appeals. On June 8, 2004, a timely Notice of Appeal was filed. Because of the Labor Day Holiday, the record was due to be filed by September 7, 2004. The record was not received by the Clerk of the Courts until September 9, 2004.

Mr. Bassett filed a Motion for Rule on the Clerk on September 10, 2004, on behalf of his client, Washington Regional Medical Center. In the Motion, Mr. Bassett explained that he was advised by the Clerk of the Worker's Compensation Commission that the record for appeal was ready to be picked up on August 9, 2004. This was twenty-nine (29) days prior to the time for filing the record with the Clerk. Mr. Bassett acknowledged in his Motion for Rule on the Clerk that the record was tendered two (2) days late. Mr. Bassett

admitted that he miscalculated the days for filing the record and accepted responsibility for the late filing.

A Response to the Motion was filed by Brent Sterling on behalf of Terry Jones. Thereafter, on September 22, 2004, the Arkansas Court of Appeals denied the Motion and notified Mr. Bassett of the denial through a Mandate from the Clerk of the Court.

Upon consideration of the formal complaint and attached exhibit materials, the response, the consent proposal, 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 Mr. Bassett's conduct violated Model Rule 1.1 when he was not thorough enough in his representation of Washington Regional Medical Center to make certain that the record on appeal was filed in a timely manner with the Arkansas Court of Appeals in the matter of *Washington Regional Medical Center v. Terry Jones*. 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.
2. That Mr. Bassett's conduct violated Model Rule 1.3 when he failed to be certain that the record on appeal for his client, Washington Regional Medical Center was filed with the Clerk of the Courts within ninety (90) days of the first Notice of Appeal filed in the matter involving Washington Regional Medical Center and Terry Jones. Model Rule 1.3 requires that a lawyer act with reasonable diligence and promptness in representing a client.
3. That Mr. Bassett's conduct violated Model Rule 8.4(d) because his failure to be certain that the record on appeal in his client's matter was timely filed with the Clerk of the Courts resulted in his client being denied an opportunity to appellate review of the Worker's Compensation Commission's decision with regard to the claim of Terry Jones in case number E909360. 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 TOD C. BASSETT, Arkansas Bar ID# 80007, be, and hereby is, CAUTIONED for his conduct in this matter. Further, pursuant to Section 18.A. of the Procedures of the Arkansas Supreme Court Regulating Professional Conduct of Attorneys at Law (2002), Mr. Bassett is assessed the costs of this proceeding in the amount of \$50. 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 B

By: _____

J. Michael Cogbill, Chair, Panel B

Date:

(13.M, Rev.1-1-02)