

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT
PANEL A

IN RE: MORRIS W. THOMPSON
ARKANSAS BAR No. 80145
CPC DOCKET No. 2006-034

FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee by Gary Owens. The information related to the representation of Mr. Owens by Morris W. Thompson, Attorney at Law, Little Rock, Arkansas, in 2005.

On March 23, 2005, Gary Owens filed a pro se complaint in the United States District court for the Western District of Arkansas. The lawsuit was based upon an employment discrimination claim against the Camden Fairview School District.

On May 6, 2005, Mr. Owens employed Morris W. Thompson, Attorney at Law, to represent him in the discrimination lawsuit. Mr. Thompson prepared a document titled "Civil Rights Contract of Employment." Mr. Owens agreed to the contents of the contract and signed it. Mr. Owens also agreed to a payment agreement wherein he would pay into the Morris W. Thompson IOLTA Trust Account the sum of \$300.00 per month beginning June 2005 and every month thereafter until the sum of \$2,000 was in the account on behalf of Mr. Owens. The agreement was that when the \$2,000 was deposited with Mr. Thompson, Mr. Thompson would initiate legal action on behalf of Mr. Owens. The payment agreement stated that if Mr. Owens chose not to continue with the lawsuit, Mr. Thompson would be entitled to recover a reasonable attorney's fee from the account. Mr. Thompson agreed that Mr. Owens had contacted him about the matter and had agreed to provide funds for representation in the event that Mr. Thompson decided whether the case should be pursued.

On May 5, 2005, Mr. Owens provided Mr. Thompson with the sum of Two Thousand Dollars (\$2,000.00) in cash and Mr. Thompson provided Mr. Owens with a receipt. The receipt was noted as being for "advance against costs."

On May 12, 2005, Mr. Owens wrote Mr. Thompson a check in the amount of One Thousand Five Hundred Dollars (\$1,500.00). This was followed up with a check made payable to Mr. Thompson in the amount of Three Hundred Dollars (\$300.00). Altogether, Three Thousand Eight Hundred Dollars (\$3,800.00) was provided to Mr. Thompson in this matter.

Mr. Thompson filed a Motion for Entry of Appearance on May 10, 2005, in the case of Owens v. Camden Fairview School District, No. 05-01026 (Western District of Arkansas). The court then set a scheduling order pursuant to Rule 26(f) with a report deadline of August 29, 2005. Mr. Thompson stated that during the course of his analysis of the case, his office prepared an entry of appearance to file in court but that the motion was sent to the court inadvertently as he had not decided at that point whether the case had merit.

On September 12, 2005, Mr. Thompson sent a letter to Mr. Owens which stated that "after extensive review of the aaterials.....provided...and the facts as I understand them to be, I do not feel you have a meritorious claim or could prevail if this matter went to trial. Therefore I am withdrawing from representing you in this matter. The letter further stated that "I have not advised Allen Roberts that I have declined to enter my appearance but I will do so soon." Mr. Thompson enclosed a check in the amount of Two Thousand Three Hundred Dollars (\$2,300.00). The letter stated that the check was a refund of costs advanced to date and that Mr. Thompson was waiving his entitlement to compensation for time spent and the very little costs incurred.

Ten days later, on September 22, 2005, Mr. Thompson filed a Motion to Be Relieved as Counsel. In the Motion, Mr. Thompson stated that he had agreed to look into the matter to determine if he would, in fact, represent Mr. Owens. Mr. Thompson stated that he had researched and investigated the matter and decided that it was not a case he was willing to take. Mr. Thompson stated in the motion that he had refunded Mr. Owens "all monies advanced toward anticipated costs of the litigation and agreed arrangements have been made to return all file materials..." The court granted Mr. Thompson's motion on September 26, 2005.

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

1. MORRIS W. THOMPSON violated Rule 1.4(b) when he failed to sufficiently explain to his client, Gary Owens, whether he represented him in the pending lawsuit or whether he was investigating the matter for possible representation. Rule 1.4(b) requires a lawyer to explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.
2. MORRIS W. THOMPSON violated Rule 1.16(d) when, following termination of representation, he failed to return to his client, Gary Owens, the full amount of unearned advanced costs paid. 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, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee or expense that has not been earned or incurred. The lawyer may retain papers relating to the client to the extent permitted by other law.
3. MORRIS W. THOMPSON violated Rule 3.3(a)(1) when he stated in a Motion to Be Relieved as Counsel filed on September 22, 2005, in the case of Owens v. Camden Fairview School District, that "[i]nadvertently, the motion [for entry of appearance] was sent out, filed with the court and granted," which was a false statement. Rule 3.3(a)(1) requires that a lawyer not knowingly make a false statement of fact or law to a tribunal.
4. MORRIS W. THOMPSON violated Rule 8.4(c) when he stated in at Motion To Be Relieved as Counsel, filed on September 22, 2005, in the case of Owens v. Camden Fairview School District, that "[i]nadvertently, the motion [for entry of appearance] was sent out, filed with the court and granted," which was a false statement as the Entry of Appearance had been filed immediately following employment.
5. MORRIS W. THOMPSON violated Rule 8.4(c) when he stated in a Motion To Be Relieved as Counsel, filed on September 22, 2005, in the case of Owens v. Camden Fairview School District, that "Counsel has refunded Mr. Owens all monies advanced toward anticipated costs of the litigation" which was a false statement as he did not return to Mr. Owens the full amount advanced by him to cover costs in the matter. Rule 8.4(c) requires that it is professional misconduct for a lawyer to 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 MORRIS W. THOMPSON, Arkansas Bar ID# 80145, be, and hereby is, CAUTIONED for his conduct in this matter and assessed costs in the amount of FIFTY DOLLARS (\$50.00). 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: _____

Phil Hout, Chair, Panel A

Date: _____