

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT

PANEL A

IN RE: **SAM WHITFIELD, JR.**, Respondent

Arkansas Bar ID #82056

CPC Docket No. 2001-100

FINDINGS AND ORDER

The formal charges of misconduct upon which this Order is based arose out of information provided to the Committee by Ramona Wren starting on August 13, 2001, and by Hubert Wren on October 3, 2001. The information pertained to the representation of Mrs. Wren's husband, Hubert Wren, by attorney Sam Whitfield, Jr. of Helena, Arkansas, in 2001.

1. Hubert Wren of Augusta, Arkansas, was serving a sentence in the Arkansas Department of Correction on a conviction out of Jackson County Circuit Court in Case No. CR-96-72. In early 2001 he advised his wife, Ramona Wren of Augusta, that he needed an attorney to help him in seeking a reduction in his sentence. Mrs. Wren spoke with her brother, James Nevels of Newport, who recommended his attorney, Sam Whitfield, Jr. of Helena. Mr. Whitfield was representing Mr. Nevels on charges then pending in Jackson Circuit Court.
2. On February 15, 2001, Mrs. Wren, Mr. Nevels and Mr. Whitfield met in Newport, when Whitfield came up for a hearing in Nevels' case. Whitfield agreed to take Hubert Wren's case, and quoted Mrs. Wren a legal fee of \$1,500, of which he required \$1,000 "up front to start." Ms. Wren paid Whitfield \$700 cash at that time, receiving his hand-written receipt, and mailed Whitfield a bank money order for the \$300 balance on February 19, 2002.
3. Despite many efforts to contact Whitfield by telephone, thereafter Mrs. Wren had no direct contact with him. On one telephone message she left, she told him he was terminated for not doing any of the work he had promised and that she wanted a refund of the \$1,000 fee paid. Hubert Wren has never had any contact from Whitfield. The statement from Ms. Graham, the circuit clerk, and a review of the docket sheets attached to her statement, show Whitfield never entered an appearance or filed any documents in Hubert Wren's case.
4. In late 2001 Mrs. Wren learned from her brother Mr. Nevels that Whitfield was to appear in court with Nevels in Newport and she went there to meet Whitfield. Whitfield claims he received a letter from Mrs. Wren, which she denies. Otherwise, he offered no explanation for not having taken any action in the matter for which she hired and paid him.
5. Mrs. Wren advised the Office of Professional Conduct that Mr. Whitfield had repaid her a net of \$649 as a partial refund of her \$1,000 paid fee.
6. Respondent admits the employment; that Complainant paid him \$1,000; that he did not work on her husband's matter because, after an unstated period of time, he claimed she wrote him and left messages for Whitfield to not do any work and requested a refund; and that he agreed to refund \$650 to her, keeping \$350 for his time and expenses in meeting her in Newport, which Complainant disputed.

Upon consideration of the formal complaint, the Respondent's response, rebuttal, and other matters, and the Arkansas Model Rules of Professional Conduct, Panel A of the Committee on Professional Conduct finds:

A. Respondent's conduct violated Model Rule 1.3 when he was hired and paid a fee of \$1,000 in February 2001 to take action to attempt to reduce or modify the criminal sentence being served by Hubert Wren from Case No. CR-96-72 in Jackson County Circuit Court. Respondent has done nothing in the matter to date. Model Rule 1.3 requires that a lawyer shall act with reasonable

diligence and promptness in representing a client.

B. Respondent's conduct violated Model Rule 1.4(a) when he failed to provide his client and his representative with information about the client's legal matter when requested to do so after being hired February 15, 2001. Model Rule 1.4(a) requires that a lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for

information.

C. Respondent's conduct violated Model Rule 1.16(d) when Ramona Wren terminated his services and requested a refund of fees she had paid, and he failed to account for or return to her the unearned portion of the \$1,000 fee she had paid him, especially as it appears Respondent has failed to take any action for which he was employed. Model Rule 1.16(d) requires that upon termination of representation, an attorney shall take steps to the extent reasonably practicable to protect the 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 advanced payment of fees that has not been earned.

D. Respondent's conduct violated Model Rule 8.4(c) when he accepted \$1,000 in fees in February 2001 to perform legal services for Hubert Wren, paid for by his wife, and failed to make any contact with the client or his representative or to perform any work on the matter since then. During the same time frame Respondent found time to travel to the same county (Jackson) where Wren's case is filed to do work in the same circuit court on a matter for his brother-in-law, who recommended Respondent to Wren and his wife Ramona Wren. Respondent spoke with Ramona Wren at one such court date for James Nevels without giving a satisfactory explanation for why he has not done any legal work for her husband, for which she employed Respondent. Only after Respondent was served with the complaint did he return a small portion of Mrs. Wren's fee money.

Model Rule 8.4(c) requires that a lawyer shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

WHEREFORE, it is the decision and order of Panel A of the Arkansas Supreme Court Committee on Professional Conduct that **SAM WHITFIELD, JR.**, Arkansas Bar ID #82056, be, and he hereby is, **REPRIMANDED** for his conduct in this matter, and he is further ordered to pay restitution to the Office of Professional Conduct, for the benefit of Ramona Wren, in the amount of \$351.00, and to pay to the Office of Professional Conduct as its costs of this proceeding and investigation, pursuant to Section 18.A of the Procedures, the sum of \$25.00. The total of \$376.00 shall be paid within thirty (30) days of the filing of this order.

ARKANSAS SUPREME COURT COMMITTEE ON

PROFESSIONAL CONDUCT - PANEL A

By:

Win A. Trafford, Chair, Panel A

Date:

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