

**BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT  
PANEL B**

IN RE: Reginald Shelton McCullough, Respondent

Arkansas Bar ID# 85102

CPC Docket No. 2001-142

**FINDINGS AND ORDER**

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee by Janet M. Ball on October 23, 2001. The information related to the representation of Gaylon Don Ball by Respondent from November 2000 to June 2001.

On March 5, 2002, Respondent was served with a formal complaint, supported by an affidavit from Janet Ball. Respondent filed a timely response on May 9, 2002. At the scheduled de novo public hearing the Respondent offered a plea to Panel B of the Committee and the Office of Professional Conduct made no objections.

The facts giving rise to the complaint were that Ms. Ball hired Respondent in November 2000, to have her husband, Gaylon Don Ball, relocated from a federal prison in Texas to a state prison facility in Arkansas. Ms. Ball paid Respondent his stated fee of \$3,250. Ms. Ball stated in her affidavit that after she hired Respondent she could not reach him by telephone so she went to his office on January 28, 2001 unannounced. Ms. Ball said she met with Respondent for only a couple of minutes and that Respondent assured her he was getting ready to send some letters out on her husband's behalf. On January 29, 2001, Respondent did send four letters out, including one to his client Mr. Ball. Ms. Ball stated in her affidavit that after these four letters were sent out nothing else was done by Respondent and that he failed to do that for which he was hired. Ms. Ball further stated that it was she, working in conjunction with her husband, her senator and the Bureau of Prisons in Washington D.C., that got her husband transferred to another prison. Ms. Ball sent Respondent letters requesting an accounting and refund of her money. Respondent advised Ms. Ball in a letter that he needed to adjust the charges by the work done. Ms. Ball said she heard nothing further from Respondent even when she requested status updates on her case. Mr. Ball also sent a certified letter to Mr. McCullough about his case. However, Mr. Ball's letter was stamped return to sender/unclaimed and was sent back to Mr. Ball.

In his response to the complaint Mr. McCullough stated that his office kept Ms. Ball apprised of the matters on the case at all times required and that she was not always reachable when he attempted to return her calls. He stated that his work on the case played a great part in 'stressing the system' thereby causing Mr. Ball's relocation. Respondent further stated that he actually did more work in the case. None of the exhibits attached to Respondent's affidavit and response showed where he had communicated with anyone other than the four letters he sent out on January 29, 2001.

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 B of the Arkansas Supreme Court Committee on Professional Conduct accepted the following plea:

That Mr. McCullough's conduct violated Model Rule 1.3 when he failed to take any action on Ms. Ball's case until she was forced to visit his office on January 28, 2001, and when he failed to take any further action on the case after sending out four letters on January 29, 2001, even though he had failed to achieve the objective of his employment. Model Rule 1.3 provides that a lawyer shall act with reasonable diligence and promptness in representing a client.

That Mr. McCullough's conduct violated Model Rule 1.4(a) when he failed to return or take any of Ms. Ball's phone calls, failed to respond to her request for a status update on her case, failed to provide an accounting regarding the fees upon his client's request, and when he failed to accept his client's certified letter. Model Rule 1.4(a) provides that a lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.

That Mr. McCullough's conduct violated Model Rule 1.16(d) when Mrs. Ball terminated his services and requested a refund of unearned fees he failed to refund any portion of the \$3,250, or to account for fees earned. Model Rule 1.16(d) provides, in pertinent part, that upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as ... refunding any advance payment of fee that has not been earned.

WHEREFORE, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct, acting through its authorized Panel B, that Reginald Shelton McCullough, Arkansas Bar ID# 85102, be, and hereby is, **SUSPENDED** for 30 days for his conduct in this matter, that he be placed on **PROBATION** for 24 months beginning at the conclusion of his suspension period, that he is ordered to pay **RESTITUTION** to Ms. Ball in the amount of \$3,250, and that he is ordered to pay costs in the amount of \$102.75, pursuant to Section 18B of the Procedures of the Arkansas Supreme Court Regulating the Professional Conduct of Attorneys at Law (2002). The suspension shall become effective on April 18, 2003. Additionally, Mr. McCullough is required to take an additional 6 hours of CLE for the reporting period beginning July 2003, including CLE's on office management and ethics.

The restitution assessed herein shall be payable by cashier's check or money order payable to the Janet Ball, and the costs assessed herein shall be payable by cashier's check or money order payable to the "Clerk, Arkansas Supreme Court". The costs assessed herein shall be 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.

By: \_\_\_\_\_

John L. Rush, Chair, Panel B

Date: \_\_\_\_\_