

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT

PANEL B

IN RE: WILLIAM M. HOWARD, JR.

ARKANSAS BAR No. 87087

CPC DOCKET NO. 2004-026

CONSENT 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 from the Arkansas Supreme Court, on February 19, 2004. The information related to the representation of Emmitt Jones.

William M. Howard, Jr., Attorney at Law, Pine Bluff, Arkansas, represented Emmitt Jones in a Rule 37 post-conviction criminal proceedings in Chicot County Circuit Court. Following an evidentiary hearing, Mr. Jones' Rule 37 Petition was denied. Mr. Jones requested that Mr. Howard appeal the decision of the Chicot County Circuit Court.

On April 30, 2003, Mr. Jones filed a *pro se* Motion for Belated Appeal. In the Motion, Mr. Jones stated that he requested his attorney, Mr. Howard, to appeal the matter and that no timely Notice of Appeal was filed. On October 9, 2003, the Arkansas Supreme Court granted the Motion for Belated Appeal and directed Mr. Howard to file a brief on Mr. Jones' behalf within forty days of April 30, 2003.

A brief on Mr. Jones' behalf was due to be filed on or before November 18, 2003. On November 25, 2003, Mr. Howard filed a Motion to File Belated Brief and Supplement Record. The Arkansas Supreme Court denied Mr. Howard's motion on January 15, 2004. As the brief was late, the Court treated the Motion to File Belated Brief as a Motion for Rule on the Clerk and directed Mr. Howard to file a Motion for Rule on the Clerk and an affidavit accepting full responsibility for the untimely filing of the transcript and brief.

On January 29, 2004, Mr. Howard filed a Motion for Rule on the Clerk and accepted responsibility for the failure to timely file the brief and transcript. The Arkansas Supreme Court granted the Motion and referred the matter to the Office of Professional Conduct.

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. Howard's conduct violated Model Rule 1.3 in that he failed to file a timely Notice of Appeal following the denial of the Rule 37 Petition by the Chicot County Circuit Court and he failed to file a brief on behalf of his client, Emmitt Jones, within the forty (40) days following the issuance of an Order of the Arkansas Supreme Court in its October 9, 2003, Order. Model Rule 1.2 requires that a lawyer act with reasonable diligence and promptness in representing a client.

2. That Mr. Howard's conduct violated Model Rule 3.4(c) in that he failed to comply with the October 9, 2003, Order of the Arkansas Supreme Court directing him to file a brief on behalf of his client, Emmitt Jones on or before November 18, 2003. Model Rule 3.4(c) requires, in pertinent part, that a lawyer not knowingly disobey an obligation under the rules of a tribunal.

3. That Mr. Howard's conduct violated Model Rule 8.4(d) in that he failed to file a Notice of Appeal on behalf of his client, Emmitt, Jones, which resulted in a delay in the orderly and timely resolution of appellate proceedings and he failed to file a timely brief with the Supreme Court required the Court to expend additional time and effort which would not have been necessary otherwise. 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 WILLIAM M. HOWARD, JR., Arkansas Bar ID# 87087, be, and hereby is, CAUTIONED for his conduct in this matter; fined the sum of Two Hundred Fifty Dollars (\$250.00); and assessed costs in the amount of Fifty Dollars (\$50.00). 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 B

By: _____

Michael Cogbill, Chair

Date: _____