

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT  
PANEL B

**FILED**

IN RE: RICHARD R. WEST, Respondent  
Arkansas Bar ID#87185  
CPC Docket No. 2011-089

FEB 17 2012

**LESLIE W. STEEN  
CLERK**

**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 the Arkansas Court of Appeals and by Mr. West's former client, Daniel Dorsey. The information related to the representation of Mr. Dorsey by Respondent in an appeal before the Arkansas Court of Appeals.

On November 17, 2011, Respondent was served with a formal complaint, supported by information from the matter of *Dorsey v. State*, CACR09-345. A response was filed. The Respondent and the Executive Director negotiated a discipline by consent proposal, which was submitted to this Panel.

Richard R. West was the attorney of record in CACR 09-345 for the appellant, Daniel Dorsey. The appeal was taken from a criminal conviction from Crittenden County Circuit Court wherein Mr. West also represented Mr. Dorsey. During November 2010, Mr. Dorsey submitted a grievance concerning the appellate matter. Following the grievance submitted by Mr. Dorsey, the Office of Professional Conduct monitored the appeal process. The information for this formal disciplinary complaint derived from the information obtained through the records of the Clerk of the Arkansas Supreme Court and Court of Appeals.

On November 3, 2010, the Court of Appeals rendered an Opinion in the appellate matter. In the Opinion, it was pointed out that Mr. West had not submitted a brief with a proper

addendum in compliance with Arkansas Supreme Court Rule 4-2(a)(8). Mr. West included only one page of the 1998 judgment and commitment order and failed to include the entire September 5, 2008 judgment and commitment order. The Court ordered re-briefing to include the relevant pleadings and any additional documents necessary on appeal.

The Court also noted that Mr. West failed to abstract any objections subject to the Court's review. Arkansas Supreme Court Rule 4-3(k)(1) requires that "the abstract and Addendum of the brief shall contain . . . all rulings adverse to the defendant . . ." The rebriefing was also ordered because of Mr. West's noncompliance with Arkansas Supreme Court Rule 4-2 and 4-3. Mr. West was ordered to file a substituted brief containing all adverse rulings and a substituted addendum containing all relevant pleadings within fifteen days from the date of entry of the order. The brief was due on November 18, 2010. Sue Newbery, Criminal Justice Coordinator for the Arkansas Supreme Court, provided Mr. Dorsey with a copy of the opinion.

On November 17, 2010, Mr. West received an extension of time in which to file the brief until January 2, 2011. Mr. Dorsey was notified of the extension of time by Sue Newbery. On November 22, 2010, Mr. West checked out the record on appeal.

On December 29, 2010, Mr. West sought another extension of time to file a compliant brief. An extension was granted until February 26, 2011. Ms. Newbery notified Mr. Dorsey of this extension on January 12, 2011.

Mr. West filed a "no-merit" brief on February 15, 2011, along with a Motion to be relieved as attorney for Mr. Dorsey. Mr. Dorsey was sent a copy of the brief and notified he had thirty (30) days to file points for reversal. After Mr. Dorsey filed his points for reversal and the Attorney General filed a brief for the State, the matter was submitted to the Court of Appeals on

May 4, 2011.

On May 18, 2011, the Court of Appeals delivered another Opinion denying Mr. West's Motion to be relieved and again ordering a rebrief. In this Opinion, the Court held that Mr. West's brief was still not in compliance with Rule 4-3(k)(1) because it failed to contain and adequately discuss all of the adverse rulings. The Court pointed out that Mr. West failed to properly abstract all of the adverse rulings, and the addendum did not contain each exhibit that was admitted over appellant's objections. In addition, the Court set out that Mr. West's brief failed to provide a complete list of all specific adverse rulings with adequate explanations as to why each one cannot support a merit appeal. In directing Mr. West to rebrief, the Court also encouraged him to review the Court's rules to ensure that the brief complied with the rules and that there were no deficiencies.

Mr. West's rebrief was due on June 2, 2011. On May 31, 2011, Mr. West sought and obtained a seven (7) day brief extension until June 9, 2011. Then on June 6, 2011, Mr. West again requested a brief extension and received one until July 24, 2011. No brief was filed by that date. No request for additional time was made either.

On October 12, 2011, the Court of Appeals delivered an En Banc Opinion denying the appellee's Motion to Dismiss. The Court removed Mr. West as attorney of record for Mr. Dorsey, appointed other counsel so that the appeal would no longer be stalled, and referred the matter to the Committee on Professional Conduct.

According to Mr. West, he did not receive the letter from the Clerk which set the final date for filing a brief for Mr. Dorsey. Mr. West explained that when he inquired of the date for the filing of the brief, the time had passed. Mr. West acknowledged that there is no viable

excuse that would allow for the occurrence of the events in Mr. Dorsey's appeal.

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

1. That Mr. West's conduct violated Rule 1.3, when Mr. West failed to file a re-brief as ordered by the Arkansas Court of Appeals by July 27, 2011, the date given as an extension of time for doing so and was removed as counsel and other counsel was appointed for Mr. Dorsey so that the appeal was not stalled any longer. Rule 1.3 requires that a lawyer act with reasonable diligence and promptness in representing client.

2. That Mr. West's conduct violated Rule 3.4(c), when Mr. West failed to comply with the requirements of Rule 4-3(k)(1) of the Rules of the Arkansas Supreme Court and failed to file a compliant brief after being ordered to do so by the Arkansas Court of Appeals in CACR09-345. Rule 3.4(c) requires that a lawyer not knowingly disobey an obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligations exists.

3. That Mr. West's conduct violated Rule 8.4(d), because his failure to file a compliant brief after being ordered to re-brief the first time in CACR09-345 caused the appellate matter of Mr. Dorsey to be delayed unnecessarily and his failure to file a brief after being order to re-brief a second time in CACR-09-345 caused the appellate matter of Mr. Dorsey to be stalled unnecessarily and created the need for the Court of Appeals to appoint new counsel to represent Mr. Dorsey. 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 Richard R. West, Arkansas Bar ID# 87185, be, and hereby is, CAUTIONED for his conduct in this matter. In addition, Mr. West is assessed the costs of this proceeding in the amount of \$100. 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: Barry Deacon  
Barry Deacon, Chair, Panel B

Date: 2/12/12

(13.M, Rev.5-26-11)