

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT
PANEL B

FILED

IN RE: RICKEY HICKS, Respondent
Arkansas Bar ID#89235
CPC Docket No. 2009-091

NOV 17 2009

**LESLIE W. STEEN
CLERK**

FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee by Rickey Williams in an Affidavit dated August 18, 2009. The information related to the representation of Mr. Williams by Respondent beginning in September 2008.

During September 2009, Respondent was served with a formal complaint, supported by affidavit from Rickey Williams. Respondent filed a timely Answer and the matter proceeded to ballot vote before Panel B of the Committee on Professional Conduct.

During September 2008, Rickey Williams hired Rickey Hicks, an attorney practicing primarily in Little Rock, to represent Mr. Williams in an Equal Employment Opportunity Commission Discrimination Complaint. Mr. Hicks agreed to undertake representation for a fee of \$1,000, which was paid by October 2, 2008. Upon payment of the fee, Mr. Hicks was also delivered the documents Mr. Williams had in his possession related to the matter.

In at least one communication Mr. Hicks had with Mr. Williams, it was explained to Mr. Hicks that Mr. Williams had sent a request for discovery but had not made any further contact with the VA, in connection with the discovery requests. On October 8, 2008, Mr. Williams copied Mr. Hicks with an e-mail that he sent to the VA attorney letting them know that he had designated Mr. Hicks as his representative. When the time to receive a reply to the request for discovery passed, Mr. Williams inquired of Mr. Hicks about the possibility of seeking sanctions

against the VA for the failure to timely respond. Mr. Williams was advised that Mr. Hicks would take care of everything. However, it appears Mr. Hicks took no action with regard to the discovery nor with regard to his pending claim.

Beginning in November 2008, Mr. Williams tried to reach Mr. Hicks on several occasions. Although Mr. Williams left Mr. Hicks numerous telephone messages and wrote him letters on at least four (4) occasions, Mr. Hicks failed to respond and discuss Mr. Williams' legal matter with him in any fashion. In the last letter sent, dated April 10, 2009, Mr. Williams terminated Mr. Hicks' representation of him and requested refund of the advanced payment of fees and the return of the documents delivered to Mr. Hicks. On April 20, 2009, Mr. Hicks sent Mr. Williams a letter setting out that he was returning the total amount of money given to Mr. Hicks by Mr. Williams. However, Mr. Hicks only returned \$600 not the \$1000 paid to him. In his letter, Mr. Hicks also set out that he had called the Veterans Administration several times and sent two letters but had received no response. The letter did not contain the documentation Mr. Williams had provided Mr. Hicks initially although Mr. Williams had requested it be returned to him when the representation was terminated.

After receiving Mr. Williams' grievance, contact was made with the Regional Counsel for the Department of Veterans Affairs to determine what contact the VA had with Mr. Hicks regarding Mr. Williams' claim. There was no indication in the file maintained on Mr. Williams' matter that Mr. Hicks had ever been in contact with anyone at the VA concerning this matter.

Mr. Williams trusted that Mr. Hicks would help him with this matter about which he feels strongly. He trusted that Mr. Hicks would act as his representative but Mr. Hicks did not do so. Mr. Hicks accepted Mr. Williams' money for fees but then took no action on his behalf, not even

to enter an appearance as his representative, nor did Mr. Hicks stay in communication with Mr. Williams

In responding to the formal disciplinary complaint, Mr. Hicks explained that he had advised Mr. Williams that these matters were lethargic and taken an enormous amount of time. He asserted that he told Mr. Williams that nothing could happen in the matter until an attorney and VA judge were assigned to it. According to Mr. Hicks, he did send a letter to John Snell of the Office of Regional Counsel indicating that he was representing Mr. Williams. In addition, Mr. Hicks advised that he spoke with Mr. Williams on numerous occasions. Mr. Hicks offered that Mr. Williams' file contents were placed with the receptionist and that Mr. Williams picked up the documents. Mr. Williams acknowledges that he received certain of his file contents from the receptionist but stated that he has no recollection of the receptionist calling to advise that there was more to be picked up at the front desk.

Upon consideration of the formal complaint and attached exhibit materials, the response to it, 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. Hicks' conduct violated Rule 1.3, because Mr. Hicks' conduct with regard to Mr. Williams' legal matter was neither diligent nor prompt after Mr. Hicks was entrusted with the matter on Mr. Williams' behalf, and, because after being hired by Mr. Williams in September 2008, Mr. Hicks failed to promptly enter an appearance on Mr. Williams' behalf and had not done so as of April 20, 2009. Rule 1.3 requires that a lawyer act with reasonable diligence and promptness in representing a client.
2. That Mr. Hicks' conduct violated Rule 1.4(a)(3), because during the

approximately seven (7) months Mr. Hicks represented Mr. Williams on the VA discrimination matter, Mr. Hicks failed to keep Mr. Williams' reasonably informed of the actions, if any, he undertook on Mr. Williams' behalf. Rule 1.4(a)(3) requires that a lawyer keep the client reasonably informed about the status of the matter.

3. That Mr. Hicks' conduct violated Rule 1.4(a)(4), because during the course of time Mr. Hicks agreed to represent Mr. Williams, he failed to promptly reply to Mr. Williams with information about the discrimination matter with which Mr. Hicks had been entrusted. Many messages and letters were sent to Mr. Hicks with no response. Rule 1.4(a)(4) requires that a lawyer promptly comply with reasonable requests for information.

4. That Mr. Hicks' conduct violated Rule 1.16(d), because after Mr. Williams terminated Mr. Hicks' representation of him on April 10, 2009, Mr. Hicks failed to surrender papers and property, i.e. the documents Mr. Williams delivered to Mr. Hicks in connection with his discrimination claim against the VA, due to Mr. Williams. 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.

5. That Mr. Hicks' conduct violated Rule 8.4(c), because from October 2, 2008, Mr. Hicks allowed Mr. Williams to believe he was entering an appearance as Mr. Williams' counsel in the discrimination claim involving the VA when, in fact, Mr. Hicks did not do so. This failure to advise Mr. Williams of this lack of contact is dishonest and deceitful. Rule 8.4(c) requires that a lawyer not 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 B, that RICKEY H. HICKS, Arkansas Bar ID# 89235, be, and hereby is, CAUTIONED for his conduct in this matter. Pursuant to Section 18A. of the Procedures, Mr. Hicks is assessed the costs of this proceeding in the amount of \$50. Mr. Hicks is also ordered to make restitution to the benefit of Mr. Williams in the amount of \$400, pursuant to Section 18.B. of the Procedures. The costs and restitution assessed and ordered 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: Valerie L. Kelly
Valerie Kelly, Chair, Panel B

Date: October 20, 2009