

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT  
PANEL A

**FILED**

IN RE: RICKEY HICKS, Respondent  
Arkansas Bar ID#89235  
CPC Docket No. 2010-070

SEP 22 2011

**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 Felicia P. Daniel. The information related to the representation of Ms. Daniel by Respondent beginning in July 2008.

During September 2010, Respondent was served with a formal complaint, supported by affidavit from Ms. Daniel. Mr. Hicks filed a timely response and the matter proceeded to ballot vote before Panel B pursuant to the Procedures of the Arkansas Supreme Court Regulating Professional Conduct of Attorneys at Law. (2002) Mr. Hicks timely requested a de novo hearing before Panel A and then Respondent and the Executive Director negotiated a discipline by consent proposal, which was submitted to this Panel.

The information before the Panel reflected that during July 2008, Ms. Daniel hired Rickey Hicks to represent her in a legal proceeding which had been filed by another attorney before that attorney took the Circuit Court bench. The civil litigation was pending in federal court when Mr. Hicks was hired. Discovery had started and a scheduling order had already been entered by the Court. Ms. Daniel paid Mr. Hicks a total of \$3800. In correspondence from Mr. Hicks, he stated that the funds paid by Ms. Daniel did not go into his IOLTA trust account and went on to assert that when received he had already earned the funds at the time of receipt. The records provided by Ms. Daniel and Mr. Hicks tend to show different.

Ms. Daniel advised that communication was difficult with Mr. Hicks. She did explain that on May 5, 2009, when Mr. Hicks advised her that the lawsuit had been dismissed on March 23, 2009, she told him she wished to appeal the dismissal. According to Ms. Daniel, instead of telling her that the time for appeal had expired, Mr. Hicks advised her that she would be throwing good money after bad. Mr. Hicks argued that he did provide Ms. Daniel with knowledge of the time for pursuing an appeal in a timely fashion but stated that he did so orally and did not have any written documentation to establish that he had done so.

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

1. That Mr. Hicks' conduct violated Rule 1.3 when he did not timely advise Ms. Daniel that her legal matter had been dismissed, nor explain the time deadlines for an appeal in a timely manner therefore depriving her of the opportunity to seek other counsel or file a Notice of Appeal pro se to preserve the opportunity for appeal. Rule 1.3 requires that a lawyer act with reasonable diligence and promptness in representing a client.

2. That Mr. Hicks' conduct violated Rule 1.15(a)(1), because upon receipt of the payments for the \$3,800 retainer from Ms. Daniel, which was for services to be rendered in the future and also any costs and expenses associated with the representation, Mr. Hicks failed to place the funds in his IOLTA trust account. Ms. Daniel's funds were not kept separate in a trust account. Rule 1.15(a)(1) requires that a lawyer hold property of clients or third persons, including prospective clients, that is in a lawyer's possession in connection with a representation separate from the lawyer's own property.

3. Mr. Hicks' conduct violated Rule 1.15(b)(2) when he failed to deposit the \$3,800 advanced payment of fee made to him by Ms. Daniel, by way of a \$2,000 payment and then payment of \$1,800 in September 2008, in his IOLTA trust account. Rule 1.15(b)(2) requires that a lawyer shall deposit into a client trust account legal fees and expenses that have been paid in advance, to be withdrawn by the lawyer only as fees are earned or expenses incurred.

4. Mr. Hicks' conduct violated Rule 8.4(d) because his failure to timely and adequately explain that the litigation had been dismissed, that there was a time deadline for pursuing an appeal and that he would not be pursuing one for her, caused Ms. Daniel to be unable to preserve her opportunity for an appeal which was adverse to her. 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 A, that RICKEY HICKS, Arkansas Bar ID# 89235, be, and hereby is, REPRIMANDED for his conduct in this matter. Mr. Hicks is also ordered to pay 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 A

By:   
T. Benton Smith, Jr., Chair, Panel A

Date: September 22, 2011