

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

**PANEL B**

IN RE: VANDELL BLAND, SR., Respondent  
Arkansas Bar ID#92062  
CPC Docket No. 2003-118

**FINDINGS AND ORDER**

The formal charges of misconduct upon which this Findings and Order is based arose from information contained in the Orders of the Arkansas Supreme Court in the appellate matter of *Teresa Davis v. Corliss M. Williamson*, 03-00399. This information related to the representation of Teresa Davis by Respondent in the attempted appeal of the Washington County Circuit Court, Juvenile Division, Case No. JUV P96-995.

On September 8, 2003, Respondent was served with a formal complaint, supported by the Orders of the Arkansas Supreme Court. A timely response was submitted by Respondent pursuant to Section 9 of the Procedures of the Arkansas Supreme Court Regulating Professional Conduct of Attorneys at Law (2002).

The information considered by the Committee, acting through Panel B, disclosed that on April 11, 2003, Vandell Bland, Sr., an attorney practicing in Forrest City, Arkansas, filed a Motion for Rule on the Clerk in the matter of *Teresa Davis v. Corliss M. Williamson*. This Motion reflected that on September 11, 2002, a final Judgment was entered in the Circuit Court of Washington County with regard to the matter being pursued by Ms. Davis against Mr. Williamson. Mr. Bland did not represent Ms. Davis at the Circuit Court level; he was hired to pursue the appeal for Ms. Davis and Mr. Bland acknowledged in his response to the Committee that he was retained to represent Ms. Davis. On October 9, 2002, Mr. Bland filed a timely Notice of Appeal. The Notice of Appeal incorrectly stated that Mr. Bland was representing Mr. Williamson and that it was Mr. Williamson who was taking the appeal. Mr. Bland even served Ms. Davis' former trial counsel, Ann C. Donovan, with the Notice of Appeal rather than Mr. Williamson's counsel. Two days later, Mr. Bland filed an Amended Notice of Appeal correctly setting out that he was representing Ms. Davis in the

appeal. According to Mr. Bland, he had numerous conversations with Mr. Fort, the court reporter for Judge Zimmerman, and that it was anticipated that the reporter would not be able to finish the transcript to have it filed within ninety (90) days following the filing of the Notice of Appeal. Mr. Bland filed a Motion for Extension of Time to File the Transcript on January 7, 2003, asserting that Mr. Fort had informed him that a hearing had been scheduled at the request of the court reporter with regard to the extension. Mr. Bland filed the Motion by fax and also faxed a copy to the opposing counsel. A telephone conference was held with regard to the Motion. Mr. Bland did not participate in the telephone conference although he was aware of the scheduling of the same. Mr. Bland stated in his response to the Committee that Mr. Fort was handling everything. Mr. Bland also informed the Committee that he faxed a proposed Order extending the time to Mr. Fort with a notation that it be faxed back to Mr. Bland so that he could file it with the Clerk. The trial judge decided that the Motion would be granted and that the time to file the transcript would be extended until April 9, 2003. The signed Order was not filed until the following day which was January 8, 2003. This was ninety-one (91) days following the filing of the first Notice of Appeal and therefore it was untimely because it was not within ninety (90) days as provided by Rule 5(a) of the Arkansas Rules of Appellate Procedure - Civil. Mr. Bland took no steps to be certain that the Order was filed in a timely fashion. According to Mr. Bland, neither he nor opposing counsel were aware that the Order was not timely filed until the Supreme Court Clerk refused to file the record.

In the first Motion for Rule on the Clerk, Mr. Bland expressed his opinion that there was no other reasonable way for the Order of Extension to be filed other than the Judge note it as filed, have it faxed back in order that Appellant could fax it to the Clerk's office, or have it taken upstairs to be filed that afternoon. Mr. Bland asserted that in conversations with Mr. Fort following the Clerk's refusal to file the record, Mr. Fort advised that he thought he had another day to file the Order.

On May 2, 2003, Mr. Bland filed an Amended Motion for Rule on the Clerk and attached the transcript of the telephone conference. This is the telephone conference for which Mr. Bland did not make himself available. A Response was filed to the Amended Motion on May 5, 2003. In the Response, it was

pointed out that Mr. Bland had made a false statement in the Amended Motion because he stated that the Circuit Court entered the extension order on January 7, 2003. Although the Judge rendered the decision when announced, the Order was not entered until it was filed on January 8, 2003, which was outside the ninety (90) day time period allowed by the procedural rules. Following consideration of all the pleadings filed with the Clerk, the Arkansas Supreme Court denied Mr. Bland's Motion for Rule on the Clerk. The Per Curiam denying the Motion was delivered on May 15, 2003. The Court noted that Mr. Bland had blamed the trial court for not entering the Order until the ninety-first day and went on to explain that it is the duty of counsel, not the judge, not the clerk, not the reporter, to perfect an appeal. It was Mr. Bland's responsibility to see that all orders were timely filed and he failed in that responsibility.

Mr. Bland filed a Petition for Rehearing on June 2, 2003. In the Petition for Rehearing, Mr. Bland argued that the Notice of Appeal relied upon to make the decision could not be the first Notice of Appeal because it failed to list the appropriate party appealing the lower court's decision. The Response to the Petition was filed on June 9, 2003. It was pointed out that Mr. Bland had already made that argument in his Motion for Rule on the Clerk and the Court had denied the same. Then, on June 17, 2003, Mr. Bland filed an Amended Petition containing the argument that Rule 3-2 of the Rules of the Supreme Court provides that in case of an amendment to the pleadings by substitution, the clerks shall treat the amended pleading as the only one and shall refrain from copying into the records any pleadings withdrawn, waived or superseded by amendment, unless it is expressly called for by a party's designation of record. In the Response filed thereto, appellee's counsel contended that Mr. Bland's new argument was wrong on the merits. In support of this position, counsel for appellee set forth many cases holding that a Notice of Appeal is not a "pleading". On June 26, 2003, the Arkansas Supreme Court denied Mr. Bland's Motion and Amended Motion for Reconsideration. Mr. Bland did assure the Committee that he understood that it was his duty to make sure that the Order was timely filed. Regardless of who else was involved or what his expectations were, the duty of timeliness was his. Mr. Bland expressed his belief that he did not violate any of the Model Rules of Professional Conduct as alleged in the formal disciplinary complaint in this particular matter. When the Supreme Court denied the Motion for Rule on the Clerk, Mr. Bland asserted that he spoke with Ms. Davis

and explained the situation to her. He also explained to her that he would be pursuing a Petition for Rehearing but he was doubtful that it would be successful. Ms. Davis wrote Mr. Bland when she read on the internet that Petition for Rehearing had been denied. In the letter, she requested that Mr. Bland return the money which she had paid to him. Mr. Bland honored her request and returned her funds to her on August 6, 2003.

Upon consideration of the formal complaint and attached exhibit materials, the response to it, and the Arkansas Model Rules of Professional Conduct, Panel B of the Arkansas Supreme Court Committee on Professional Conduct finds:

1. That Mr. Bland's conduct violated Model Rule 1.1 because he was not thorough enough in his representation of Ms. Davis to make certain that the Order extending the time to file the transcript was filed in a timely manner. Model Rule 1.1 requires that a lawyer provide competent representation to a client, including the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.
2. That Mr. Bland's conduct violated Model Rule 1.2(a) in that despite the fact that his client, Ms. Davis, wished to pursue an appeal of the lower court's decision out of Washington County Circuit Court, he failed to comply with all the procedural rules to do so and therefore denied her the right to an appeal of the lower court's decision. Model Rule 1.2(a) requires that a lawyer abide by a client's decision concerning the objectives of representation, subject to paragraphs (c), (d), and (e), and consult with the client as to the means by which they are to be pursued.
3. That Mr. Bland's conduct violated Model Rule 1.3 when he failed to be certain that an Order extending the time to file the transcript on appeal was entered of record within ninety (90) days of the first Notice of Appeal filed in the matter involving Ms. Davis and Mr. Williamson. Model Rule 1.3 requires that a lawyer act with reasonable diligence and promptness in representing a client.

4. That Mr. Bland's conduct violated Model Rule 3.4(c) because he failed to adhere to requirements of Rule 5(a) of the Rules of Appellate Procedure - Civil when he failed to be certain that an Order extending the time to file the record on appeal was entered within ninety (90) days of the filing of the first Notice of Appeal. Model 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 obligation exists.
5. That Mr. Bland's conduct violated Model Rule 8.4(d) because his failure to be certain that an Order extending the time to file his client's record on appeal was timely entered resulted in his client being denied her right to appellate review of the Washington County Circuit Court's decision in *Teresa Davis v. Corliss M. Williamson*, Case #JUV-P96-995. 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 VANDELL BLAND, SR., Arkansas Bar ID# 92062, be, and hereby is, REPRIMANDED for his conduct in this matter. Further, pursuant to Section 18A of the Procedures, Mr. Bland is assessed the costs of this proceeding in the amount of \$50. Pursuant to Section 18B of the Procedures, Mr. Bland is ordered to pay a fine in the amount of \$1000. The costs and fine 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 with 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: \_\_\_\_\_  
John Rush, Chair, Panel B

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