

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT

PANEL A

IN RE: GERALD W. CARLYLE

ARKANSAS BAR ID #72019

CPC DOCKET NO. 2001-129

FINDINGS AND ORDER

The formal charges of misconduct upon which this Order is premised arose from the Complaint of Cathy Ann St. John. Gerald W. Carlyle, an attorney practicing in Newport, Jackson County, Arkansas, represented Ms. St. John's ex-husband on April 2, 2001, in a hearing before Judge Tom Hilburn. Ms. St. John did not have an attorney present with her at the hearing.

Ms. St. John understood that the purpose of the court hearing was to address the issue of a restraining order. However, at the conclusion of the hearing, Judge Hilburn ordered an Amendment to the original Divorce Decree. The Amendment to the Decree addressed where and when Ms. St. John's ex-husband could pick up their daughter. Judge Hilburn ordered that Ms. St. John's ex-husband was to pick up the couple's daughter at her school at the end of the day every other Friday for visitation. Mr. St. John has never done so because he does not have a court order filed to that effect ordering him to do so. Mr. Carlyle was told by Judge Hilburn to prepare the Amendment to the Decree but he has not done so.

Ms. St. John contacted Northeast Legal Services for assistance in causing the Amendment to the Decree to be entered. No one there would assist her but instead they referred her to the Committee to seek disciplinary action against Mr. Carlyle.

Mr. Carlyle did not deny the allegations contained in Ms. St. John's affidavit. He merely explained that he had been in a state of depression for approximately two years because of a separation between he and his wife. Mr. Carlyle also explained that during this same time period he has lost his life savings, his home and his law office building. At the time he submitted his responsive affidavit, Mr. Carlyle had rented an office and was attempting to rebuild his practice.

Upon consideration of the formal complaint, the response herein, and the Arkansas Model Rules of Professional Conduct, the Committee on Professional Conduct, through its authorized Panel A, finds:

1. That Mr. Carlyle's conduct violated Model Rule 1.3 because his failure to cause the Order reflecting the Judge's findings from the hearing on April 2, 2001, to be prepared and signed reflects a lack of diligence in the representation of his client, Jimmy St. John. Model Rule 1.3 requires that a lawyer act with reasonable diligence and promptness in representing a client.
2. That Mr. Carlyle's conduct violated Model Rule 3.2 since he has failed to prepare the Order from the April 2, 2001, hearing as directed by Judge Hilburn thereby causing a delay in the conclusion of the St. John v. St. John litigation. Model Rule 3.2 requires that a lawyer make reasonable efforts to expedite litigation consistent with the interests of the client.

- That Mr. Carlyle's conduct violated Model Rule 3.4(c) when he failed to prepare the

Order reflecting Judge Hilburn's findings from the April 2, 2001, hearing, although directed by Judge Hilburn to do so. 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.

- That Mr. Carlyle's conduct violated Model Rule 8.4(d) since his failure to prepare

Order as directed by Judge Hilburn has led to an unnecessary delay in the conclusion of the legal matter. 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, through Panel A, that GERALD W. CARLYLE, Arkansas Bar ID #72019 be, and hereby is, REPRIMANDED for his conduct in this matter.

ARKANSAS SUPREME COURT COMMITTEE

ON PROFESSIONAL CONDUCT

By:

Win Trafford, Chairman, Panel A

Date:
