

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT
PANEL A

IN RE: JEFF HARRELSON
ARKANSAS BAR ID #96118
CPC Docket No. 2011-002

FILED

APR 26 2011

**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 the Arkansas Supreme Court involving the case of Justin Anderson v. State of Arkansas, CR08-1464. . The information related to the representation of Mr. Anderson by Respondent, Jeff Harrelson, in the appellate matter before the Supreme Court of Arkansas..

On January 18, 2011, Respondent was served with a formal complaint, supported by information from the Supreme Court. Respondent failed to file a response to the complaint, which failure to timely respond, pursuant to Section 9.C(4) of the Procedures of the Arkansas Supreme Court Regulating Professional Conduct of Attorneys at Law, constitutes an admission of the factual allegations of the formal complaint and extinguishes Respondent's right to a public hearing.

The factual background present in the appellate matter from which the referral was sent to the Committee by the Court is as follows:

On December 17, 2008, Jeff Harrelson, an attorney practicing primarily in Texarkana, filed with the Arkansas Supreme Court Clerk the record from the denial of Mr. Anderson's' Rule 37 proceeding from Miller County Circuit Court. The brief on Mr. Anderson's behalf was initially due to be filed on January 22, 2009. Mr. Harrelson received a thirty day extension and

was granted until February 25, 2009, to file an appellant's brief. On February 25, 2009, Mr. Harrell was granted a final extension until March 12, 2009, to file the appellant's brief. On March 12, 2009, Mr. Harrelson filed a brief and also filed a Motion for Extension of Time to File Brief or, in the Alternative, Motion to Supplement Abstract, Addendum, and file a Substituted and Compliant Brief. The Motion was held as moot when the brief was rejected. Mr. Harrelson was granted seven days to file a corrected brief. A brief was filed on March 19, 2009. The matter then proceeded with the appellee, State of Arkansas, filing a Motion for Re-briefing. The Motion was granted and Mr. Harrelson was directed to file a substituted brief by June 29, 2009. Mr. Harrelson was specifically directed to comply with Arkansas Supreme Court Rule 4-2(a)(5) as to an abstract of the trial records. Mr. Harrelson filed a substituted brief. After the Attorney General filed the appellee brief on September 9, 2009, the matter was submitted to the Supreme Court.

On March 18, 2010, the Court issued a Per Curiam directing re-briefing by Mr. Harrelson. His brief on behalf of Mr. Anderson was due no later than May 17, 2010. A substituted brief was filed on May 17, 2010. The case was submitted on September 23, 2010. On October 7, 2010, the Per Curiam issued which referred Mr. Harrelson to the Committee.

In the Per Curiam of October 7, 2010, the Court explained that re-briefing was ordered because the argument portion of the brief filed by Mr. Harrelson was woefully deficient. The Court went on to explain that although a substituted brief was filed, it remained woefully deficient. Because Mr. Harrelson did not comply with the prior per curiam order, the Court relieved him as counsel for Mr. Anderson and referred Mr. Harrelson to the Committee.

Mr. Harrelson was instructed in the first Per Curiam which ordered re-briefing to

specifically articulate Mr. Anderson's allegations of error, support each allegation with applicable citation to recent authority, apply the authority cited to the facts of each claim, thoroughly analyze the issues, and advocate for a result that benefitted Mr. Anderson. The Court set out in the Per Curiam referring Mr. Harrelson to the Committee that Mr. Harrelson made minimal changes before filing the revised brief and that again the majority of the arguments presented on behalf of his client were undeveloped and included nothing but conclusory statements. The Court, in concluding the statements concerning Mr. Harrelson, set out that despite the serious nature of the case and the instructions given by the Court, Mr. Harrelson failed to file an adequate brief on Mr. Anderson's behalf so that the Court could fully consider the issues.

Justice Brown wrote a separate Opinion concurring in part and dissenting in part. Justice Brown specifically concurred in the majority's decision to again order re-briefing. However, he dissented in that he would require Mr. Harrelson to show cause why he should not be held in contempt for his noncompliance with the Court's first re-briefing order.

Upon consideration of the formal complaint and attached exhibit materials, 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. Harrelson's conduct violated Rule 1.1, because Mr. Harrelson was not thorough enough in his representation of Mr. Anderson to be certain he filed a compliant Appellant's Brief after having been ordered to do so in the Court's Per Curiam of March 18, 2010; Mr. Harrelson failed to specifically articulate Mr. Anderson's allegations of error in the substitute brief filed on May 17, 2010, on behalf of Mr. Anderson; Mr. Harrelson failed to

support each allegation made on behalf of Mr. Anderson in the substitute brief filed on May 17, 2010, with applicable citation to recent authority; Mr. Harrelson failed to apply the authority cited in Mr. Anderson's brief to the facts of each claim; Mr. Harrelson failed to thoroughly analyze the issues present on Mr. Anderson's behalf in the brief filed on May 17, 2010, after having been ordered to re-brief; and, Mr. Harrelson failed to advocate for a result that benefits Mr. Anderson in the brief filed on May 17, 2010, after having been ordered to re-brief.

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. Harrelson's conduct violated Rule 8.4(d) because Mr. Harrelson's failure to file a brief which met the requirements of the directive to him by the Supreme Court to re-brief delayed the process of his client's appeal, which would not have occurred otherwise and because Mr. Harrelson's failure to comply with the directives of the Supreme Court when he re-briefed the Appellant's brief on Mr. Anderson's behalf created the need for the Court to relieve him from representation and appoint other counsel for Mr. Anderson. 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 JEFF HARRELSON, Arkansas Bar ID# 96118, be, and hereby is, REPRIMANDED for his conduct in this matter. In addition, Mr. Harrelson is assessed the costs of this proceeding pursuant to Section 18.A. of the Procedures in the amount of FIFTY DOLLARS (\$50). 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. For his failure to

respond, a separate sanction of REPRIMAND is imposed.

ARKANSAS SUPREME COURT COMMITTEE
ON PROFESSIONAL CONDUCT - PANEL A

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

Date: April 1, 2011