

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT

PANEL A

IN RE: BRUCE JAMESON BENNETT
ARKANSAS BAR ID #92140
CPC Docket No. 2001-091

FINDINGS AND ORDER

The formal charges of misconduct upon which this Order is premised arose from information coming to the attention of the Committee, by way of a Judicial Referral made by Honorable William A. Storey, Circuit Judge for Washington County. The information related to the conduct of Bruce Jameson Bennett in his representation of William Robert Taylor in the case of State of Arkansas v. William Robert Taylor. Mr. Bennett is an attorney primarily practicing law in Fayetteville, Washington County.

The information provided demonstrated that trial was scheduled in Mr. Taylor's matter at 9:00 a.m., July 5, 2001. When the case was called on that date, Mr. Taylor was not present in the courtroom but Mr. Bennett was present. Mr. Bennett informed Judge Storey that he had attempted to contact his client, Mr. Taylor, but had been unable to do so by telephone. As a result of Mr. Bennett's representations, Judge Storey entered a formal failure to appear finding against Mr. Taylor. Later that same day, Judge Storey was contacted by attorney Ann Donovan. Ms. Donovan explained to Judge Storey that she had been retained to represent Mr. Taylor and wished to appear in court and enter a guilty plea based upon an agreement with the prosecuting attorney. At 1:30 on the afternoon of July 5, 2001, Mr. Taylor appeared before Judge Storey with Ms. Donovan and entered a plea of guilty to the charge of possession of drug paraphernalia.

At the conclusion of the plea hearing, Judge Storey was informed by Mr. Taylor that he had been present outside the courtroom prior to his case being called earlier that day. At the same time, Mr. Taylor informed Judge Storey that he had spoken with Mr. Bennett that morning outside the courtroom. According to Mr. Taylor, he left the courthouse based on his conversation with Mr. Bennett. Judge Storey also heard from Mr. Taylor's wife who corroborated the information Mr. Taylor provided to Judge Storey.

Mr. Taylor specifically advised Judge Storey that he met with Mr. Bennett in the parking lot of the courthouse prior to his scheduled trial appearance. During the conversation in the parking lot, Mr. Bennett advised Mr. Taylor that the plea negotiations with the prosecuting attorney had not been finalized. Mr. Taylor entered the courthouse with Mr. Bennett but was advised to wait outside the courtroom while Mr. Bennett spoke with the prosecuting attorney. Mr. Bennett then went into the courtroom. When he came back out and spoke with Mr. Taylor, Mr. Bennett advised that the offer was too stiff. He also informed Mr. Taylor that no one had been advised of Mr. Taylor's presence in the courthouse. Upon receipt of that information, Mr. Taylor asked if he should leave and "take a failure to respond". Mr. Bennett's response was that it could not hurt. Before exiting the parking lot, Mr. Taylor contacted Ms. Donovan, by cell phone, and she was able to assist him with the situation created by Mr. Bennett's conduct.

In responding to the complaint and the statements made by Mr. Taylor to Judge Storey, Mr. Bennett offered information about his dealings with Mr. Taylor. According to Mr. Bennett, Mr. Taylor did not keep in touch with him in regard to his legal matters. In addition, Mr. Bennett advised that Mr. Taylor had more ongoing criminal proceedings than the one pending before Judge Storey. Since Mr. Taylor did not keep in contact with Mr. Bennett, he did not believe that Mr. Taylor would appear for court on July 5, 2001. Mr. Bennett stated in his response that he did not recall whether he saw Mr. Taylor and his wife in the parking lot on July 5, 2001. He does admit that he did see Mr. Taylor outside the courtroom and did speak with him on the 5th of July before the case was called in open court. Mr. Bennett offered that it was Mr. Taylor who suggested not appearing that morning for court. Mr. Bennett did admit that he stated sarcastically to Mr. Taylor "what could it hurt?". When Mr. Bennett advised Mr. Taylor that he was entering the courtroom, he hoped that Mr. Taylor would follow. According to Mr. Bennett, even though he was not correct in advising Judge Storey that he had been unable to reach Mr. Taylor, it was Mr. Taylor's leaving that had everything to do with the failure to appear and nothing to do with Mr. Bennett's statements to the Court.

The information provided demonstrated that the statements made by Mr. Bennett to Judge Storey were false. Because of the false statements, Judge Storey submitted the transcript of the proceedings to the Committee on Professional Conduct for review and action. Mr. Bennett apologized to the Committee for his wrong in this matter and requested that he be permitted to continue to serve his clients.

Upon consideration of the formal complaint, the response thereto, and the Arkansas Model Rules of Professional Conduct, the Committee on Professional Conduct finds:

1. That Mr. Bennett's conduct violated Model Rule 3.3(a)(1) when he falsely advised Judge Storey that he had been unable to reach his client, William Robert Taylor, thereby causing Judge Storey to make a formal finding of failure to appear. Model Rule 3.3(a)(1) requires, in pertinent part, that a lawyer not knowingly make a false statement of material fact to a tribunal.
2. That Mr. Bennett's conduct violated Model Rule 3.4(c) because, as an officer of the court because of his privilege to practice law, he is charged with the duty of truthfulness to the Judges he appears before, yet he offered false statements to Judge Storey concerning his client on July 5, 2001. 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.
3. That Mr. Bennett's conduct violated Model Rule 8.4(c) when he gave Judge Storey false information concerning his client's absence from court on July 5, 2001. Model Rule 8.4(c) requires that a lawyer shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

- That Mr. Bennett's conduct violated Model Rule 8.4(d), to wit: (i) His statements and

implied advice to his client on July 5, 2001, caused Mr. Taylor to leave the courthouse before a scheduled trial resulting in a failure to appear being entered on the record against him; and, (ii) His conduct created the need for Judge Storey to re-schedule Mr. Taylor's matter for the afternoon of July 5. Said re-scheduling would not have been necessary but for Mr. Bennett's conduct. 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 that BRUCE JAMESON BENNETT, Arkansas Bar ID #92140, be, and hereby is, REPRIMANDED for his conduct in this matter.

ARKANSAS SUPREME COURT COMMITTEE
ON PROFESSIONAL CONDUCT

By:

Win Trafford
Chairman

Date: