

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

IN RE: WILLIAM GLEN HOGGARD, Respondent
 Arkansas Bar ID#2000064
 CPC Docket No. 2006-085

FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee from Orders of the Arkansas Court of Appeals in the appeal of *Rex Black v. Arkansas Department of Human Services*, CA05-01056. The information related to the representation of Rex Black by Respondent in 2005 and 2006.

During August 2006, Respondent was served with a formal complaint, supported by Orders and pleadings from the *Black* appeal file. Respondent filed a timely response. Pursuant to the Procedures of the Arkansas Supreme Court Regulating Professional Conduct of Attorneys at Law (Procedures), the matter proceeded to Panel A for ballot vote.

The information before the Committee reflected that on September 27, 2005, Rex Black, through counsel, John C. Burnett, tendered the record on appeal from a decision Pope County Circuit Court. The brief was due to be filed on November 7, 2005. On November 9, 2005, Mr. Hoggard filed a Motion for Appointment of Substitute Counsel and requested to be named Mr. Black's attorney. The Motion was granted. Mr. Hoggard was advised that the brief was due to be filed no later than December 30, 2005. On December 28, 2005, Mr. Hoggard requested an extension to file the brief on appeal. The request was granted by the Court and he was granted until January 29, 2006, to file a brief on Mr. Black's behalf. Mr. Hoggard did not file a brief by that date. On February 2, 2006, the Arkansas Department of Human Services filed a Motion to

Set Final Due Date. Mr. Hoggard filed a response on February 10, 2006. The Court denied the Motion and set the due date for the brief as March 1, 2006. On the date the brief was due, Mr. Hoggard requested an extension of time to file a brief. The Court of Appeals granted the Motion until March 31, 2006. On March 31, 2006, Mr. Hoggard did not submit a brief on Mr. Black's behalf. Instead, he filed a Motion for Additional Time. The Court of Appeals granted the Motion and advised Mr. Hoggard that the extension was a final one and that the brief was due May 1, 2006. Mr. Hoggard did not file a brief or any other pleading on May 1, 2006. On May 25, 2006, the attorney for the Minor Child filed a Second Motion to Dismiss the Appeal. Mr. Hoggard did not respond to the Motion. The Motion was granted and the appeal was dismissed on June 14, 2006. On July 3, 2006, Mr. Hoggard filed a Motion for Reconsideration. On July 26, 2006, the Court of Appeals denied his Motion.

In his response to the formal disciplinary complaint, Mr. Hoggard denied that he had a duty to pursue an appeal if he found that there was no issue of arguable merit for appeal. According to Mr. Hoggard, he could not pursue the appeal because he reached the conclusion that there was no issue of arguable merit for appeal. A no-merit brief was required but Mr. Hoggard did not file that type of brief either. Mr. Hoggard denied that his conduct in this matter demonstrated a lack of diligence because he was allowed pursuant to the Rules of Appellate Procedure - Civil to request and receive the extensions of time as he did. Mr. Hoggard admitted that he did not file the brief by the final extension date but averred that he was relying on the fact that he could file a Motion to File Belated Brief in order to file the brief on Mr. Black's behalf.

Mr. Hoggard denied violating an obligation of the Court when he failed to file a brief by the final extension date given by the Court in that he could have cured it by a Motion to File

Belated Brief and also because the rule pertains to Fairness to Opposing Party and Counsel, neither of which were harmed in his opinion. Mr. Hoggard also denied that Mr. Black was not prejudiced by that fact that he did not file a brief in a timely fashion and was thereafter denied the opportunity to do so. Mr. Hoggard advised that Mr. Black received the No Merit brief and did not file any points for reversal for himself and therefore was not prejudiced by the Court's denial of Mr. Hoggard's Motion for Reconsideration.

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

1. That Mr. Hoggard's conduct violated Arkansas Rule 1.2(a), because despite the fact that his client, Mr. Black, wished to pursue an appeal of the lower court's decision out of Pope County Circuit Court, he failed to file a brief or respond to the Appellee's Second Motion to Dismiss and therefore denied Mr. Black the opportunity to an appeal of the lower court's decision after having made his entry of appearance specifically for that purpose. Arkansas Rule 1.2(a) requires that subject to paragraphs (c) and (d), a lawyer abide by a client's decisions concerning the objectives of representation, and, as required by Rule 1.4, shall consult with the client as to the means by which they are to be pursued.

2. That Mr. Hoggard's conduct violated Rule 1.3, because he failed to file a brief in the appeal he was to pursue after his entry of appearance in November 2005 on behalf of Rex Black with the Arkansas Court of Appeals thereby causing the same to be dismissed; because after filing multiple Motions for Extension of Time to File a Brief on Mr. Black's behalf, he did not tender a brief until after the appeal had been dismissed; and, because he failed to file a response

to the Second Motion to Dismiss filed on behalf of the Appellee in the appeal involving Rex Black. Arkansas Rule 1.3 requires that a lawyer act with reasonable diligence and promptness in representing a client.

3. That Mr. Hoggard's conduct violated Rule 3.4(c), when he failed to adhere to the requirements of the Arkansas Court of Appeals when he failed to file a brief on behalf of his client, Rex Black, by the date of the Final Extension. Arkansas 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.

4 That Mr. Hoggard's conduct violated Rule 8.4(d), because his failure to file a brief for his client resulted in the Appellee's Second Motion to Dismiss being granted and his client being denied an opportunity to appellate review of the decision of the Pope County Circuit Court. Arkansas 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 WILLIAM GLEN HOGGARD, Arkansas Bar ID# 2000064, be, and hereby is, REPRIMANDED for his conduct in this matter. Further, pursuant to Section 18.A. of the Procedures, Mr. Hoggard is assessed the costs of this proceeding in the amount of \$50. In addition, pursuant to Section 18.C. of the Procedures, the Committee imposes a fine in the amount of \$500 to be paid by Mr. Hoggard. The fine and 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: _____
Phil D. Hout, Chair, Panel A

Date: _____