

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT

PANEL A

IN RE: MARQUIS E. JONES

ARKANSAS BAR ID #74089

CPC DOCKET NO. 2001-113

FINDINGS AND ORDER

The formal complaint upon which this Findings and Order is premised arose from the complaint of Courtney Walls. During 1997, Mr. Walls' father, Porter Walls, died. In February 1998, Angela Walls, the decedent's illegitimate daughter, filed a Petition for Administration with Will Annexed. The Petition was filed by Marquis E. Jones, an attorney practicing primarily in Little Rock, Pulaski County.

A few months later, Mr. Walls, the complainant in this matter, filed a Petition for Probate of Will. It was his desire to probate a Will that was executed by his father which did not acknowledge the illegitimate daughter nor did it bequeath anything to her. Mr. Jones represented Ms. Walls in the subsequent proceeding. While the second Petition was pending action by the probate court, an inventory became due in the first probate proceeding. Mr. Jones failed to cause an Inventory to be filed as required by law. In the second proceeding, Mr. Walls' attorney filed discovery requests to which Mr. Jones failed to respond. After several months elapsed with various actions being conducted, the probate court admitted the second Will to probate and found that the first Will had been revoked by the second one. Further, in the Order admitting the second Will to probate, the judge found that Ms. Walls had failed to timely comply with the 180 days allowed by law for an illegitimate child to make claim for inheritance. Thereafter, Mr. Jones filed a Motion for New Trial, which was denied 17 days after its filing. Subsequent to entry of the Order denying the

Motion for New Trial, Mr. Jones filed a Motion to Amend the Order. In the Motion to Amend, Mr. Jones included arguments not previously raised in his pleadings. Because of the new arguments and frivolous tactics of Mr. Jones, Mr. Walls was required to hire new counsel to assist him in the probate proceedings. There was no provision in the law for the Motion to Amend which was filed by Mr. Jones, a fact pointed out by Mr. Walls' new counsel. The Motion was denied. After the denial, Mr. Jones filed a Notice of Appeal. In the designation of record for the appeal, Mr. Jones failed to designate testimony which was relied upon by the probate judge in making his ruling.

During the time that Mr. Jones was pursuing this matter for Ms. Walls, he was collecting rents on property that belonged to the complainant Courtney Walls. Mr. Jones was ordered by the probate court to account for all funds received and place them in the Court registry. He did not do so for several months after entry of the Order by the probate court. At no time did Mr. Jones verify that the funds were maintained in his trust account for the period of time from receipt until delivered to the Clerk.

In addition, to all of these pleadings and activities of Mr. Jones, he filed a Petition for Partial Payment of Estate Expenses and Fees for his services while representing Ms. Walls. The requested payment was solely for costs associated with Ms. Walls' claims. Ultimately the probate matter was affirmed on appeal. In the Opinion, the Court pointed out that Mr. Jones provided no authority for one of his three arguments and failed to preserve another for appeal because he did not raise it at the lower court level. In addition, the appellate court specifically set out that information which Mr. Jones failed to designate as part of the record was pivotal to the decision of the trial court and essential to the review on appeal. Mr. Walls was the prevailing party in every lawsuit and Motion

levied against him by Mr. Jones. The matter lingered in the courts for over two (2) years because of Mr. Jones' repeated Motions and requests for delay.

Mr. Jones denied that his conduct was anything other than vigorously representing his client, Angela Walls. According to Mr. Jones, he believed that the issues in the Walls' probate matter were worthy of being presented to the Court on appeal. Mr. Jones denied that he did anything which would cause a delay in any of the proceedings in the probate or appeal. He averred that the funds he received from rents of property belonging to the decedent and then the complainant were placed in his trust account and maintained there until paid to the Clerk of the Court. In addressing the failure to respond to the discovery requests, Mr. Jones set forth that he did everything in his power to respond to the discovery in a proper manner without breach of the Model Rules. However, his client had no telephone nor transportation. Mr. Jones concluded his response to the Committee by expressing his belief that he did not violate any of the Model Rules as alleged in the complaint pending.

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. Jones' conduct violated Model Rule 3.1 when he continued to file Motions and assert issues on behalf of Angela Walls even though there was no basis under the law in Arkansas for doing so. Model Rule 3.1 requires, in pertinent part, that a lawyer shall not bring a proceeding, or assert an issue therein, unless there is a basis for doing so that is not frivolous, which includes a good faith argument for an extension, modification or reversal of existing law.

2. That Mr. Jones's conduct violated Model Rule 3.2 because his conduct and tactics

in his representation of Angela Walls were not only dilatory but also unnecessarily frustrating to the opposing party. Model Rule 3.2 requires that a lawyer shall make reasonable efforts to expedite litigation consistent with the interests of the client.

3. That Mr. Jones' conduct violated Model Rule 3.4(c) when despite being ordered to turn over estate funds to the registry of the Court by a date certain, he failed to do so by that date. Model Rule 3.4(c) requires that a lawyer shall 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. Jones's conduct violated Model Rule 3.4(d) when he failed to file timely responses to the discovery propounded by complainant and his counsel and thereafter failed to timely comply with the deadline in the Order to Compel. Model Rule 3.4(d) requires, in pertinent part, that a lawyer shall not, in pretrial procedure, fail to make reasonably diligent effort to comply with a legally proper discovery request by an opposing party.

5. That Mr. Jones' conduct violated Model Rule 8.4(d), to wit: (i) His continued

frivolous Motions and pleadings led to unnecessary delay in the probate of the Estate of Porter Walls; (ii) He raised issues on appeal for which he presented no case law and which he failed to raise at the trial court level which caused the Court to have to address issues not properly before them; and, (iii) He failed to include in the appellate record testimony which was necessary and essential which created the need for a supplement to the record by opposing counsel and a Motion for the cost of doing so which the Court was required to consider. 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 MARQUIS E. JONES, Arkansas Bar ID #74089, be, and hereby is, CAUTIONED for his conduct in this matter.

ARKANSAS SUPREME COURT COMMITTEE ON

PROFESSIONAL CONDUCT

By:

Win A. Trafford, Chair, Panel A.

Date: