

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT
PANEL A

IN RE: Simmons S. Smith, Respondent
Arkansas Bar ID # 76119
CPC Docket No. 2004-142

FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee by Dr. Mohammad-Reza Sheikholeslami on February 17, 2004. The information related to the representation of Dr. Sheikholeslami by Respondent in 2003.

On September 30, 2004, Respondent was served with a formal complaint, supported by an affidavit from Dr. Sheikholeslami. Respondent filed a timely response. The facts giving rise to this complaint are that Dr. Sheikholeslami had a car accident on February 14, 2003, and hired Respondent, Attorney Simmons S. Smith, an attorney practicing primarily in Pulaski County, to represent him. Dr. Sheikholeslami received medical treatment for three months after the accident and he stated that Mr. Smith promised to complete his case by June 2003 because Dr. Sheikholeslami was moving to California. Dr. Sheikholeslami said he heard nothing else from Mr. Smith and that Mr. Smith failed to return his phone calls, answer his letters or emails, or communicate with him on the status of his case. As of the date this complaint was filed, the case remains unresolved. Mr. Smith filed a response stating the reason he did not do anything on Dr. Sheikholeslami is because the doctor failed to sign a medical authorization form and Mr. Smith states that he did communicate with his client. Dr. Sheikholeslami filed a rebuttal stating Mr. Smith never communicated with him at all and that as a doctor he would certainly understand the necessity of providing any forms necessary but that Mr. Smith never gave him, nor asked for a medical authorization form.

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. Smith's conduct violated Model Rule 1.3 when after he was hired by Dr. Sheikholeslami he failed to take any action on his behalf. Model Rule 1.3 requires that a lawyer act with reasonable diligence and promptness in representing a client.
2. That Mr. Smith's conduct violated Model Rule 1.4(a) when he failed to respond to Dr. Sheikholeslami's emails, phone calls or letters regarding the status of his case. Model Rule 1.4(a) requires that a lawyer keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.
3. That Mr. Smith's conduct violated Model Rule 1.4(b) when he failed to communicate with Dr. Sheikholeslami regarding the status of his case. Model Rule 1.4(b) requires that a lawyer explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.
4. That Mr. Smith's conduct violated Model Rule 3.2 when he failed to take any action in Dr. Sheikholeslami's case. Model Rule 3.2 requires that a lawyer make reasonable efforts to expedite litigation consistent with the interests of the client.
5. That Mr. Smith's conduct violated Model Rule 8.4(a) when he failed to take any action on behalf of his client. Model Rule 8.4(a) requires that lawyer not violate or attempt to violate the rules of professional conduct, knowingly assist or induce another to do so, or do so through the acts of another.
6. That Mr. Smith's conduct violated Model Rule 8.4(d) when he failed to take any action on behalf of his client and the case remained unresolved. 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, acting through its authorized Panel A, that Simmons S. Smith, Arkansas Bar ID# 76119, be, and hereby is, CAUTIONED for his conduct in this matter and Ordered to pay \$50 costs. 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.

ARKANSAS SUPREME COURT COMMITTEE ON
PROFESSIONAL CONDUCT - PANEL A

By: _____

Gwendolyn D. Hodge, Chair, Panel A

Date: _____