

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

IN RE:           K. DANIEL HASH, Respondent  
                  Arkansas Bar ID#2000009  
                  CPC Docket No. 2004-069

**FINDINGS AND ORDER**

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee by Terry Lynn Foreman in an Affidavit dated April 28, 2004. The information related to the representation of Terry Lynn Foreman by Respondent in 2003 and 2004.

On June 17, 2004, Respondent was served with a formal complaint, supported by affidavit from Terry Lynn Foreman. Respondent filed a timely response following two (2) extensions of time in which to do so. Following receipt of the response, the matter proceeded to ballot vote before Panel B of the Committee on Professional Conduct pursuant to the Procedures of the Arkansas Supreme Court Regulating Professional Conduct of Attorneys at Law (2002).

The information before the Committee reflected that during August 2003, Terry Lynn Foreman hired K. Daniel Hash, an attorney formerly practicing law primarily in Bentonville, to represent her in an appeal of a decision from Sebastian County Circuit Court. The appeal had initially been filed on April 29, 2003, by Thomas B. Wilson. Mr. Wilson had received an extension of time to file the brief in the appeal until September 29, 2003. Ms. Foreman hired Mr. Hash prior to the deadline for filing the appeal brief. According to Mr. Hash, the initial interview with Ms. Foreman was actually conducted by Johnny E. Gross, an attorney with whom Mr. Hash was working at the time. He asserts that Mr. Gross and he took the case together. Mr. Hash is the only one who made appearance in the appeal according to the records maintained by the Clerk's office. This is a fact Mr. Hash admitted in his response to the Committee.

Mr. Hash did make an entry of appearance in the appeal pending before the Arkansas Court of Appeals. Mr. Wilson was relieved as counsel for Ms. Foreman on September 17, 2003.

On the date the brief was due, Mr. Hash filed a Motion for Additional Time to file a brief in the pending appellate matter. The Motion was granted and the appeal brief became due on or before December 1, 2003. Mr. Hash did not file a brief by that date nor did he seek an extension of time in which to file the brief. Mr. Hash asserted that he sought the advice of Mr. Gross about the deadline for filing the appeal and was advised by Mr. Gross that since they had not been paid they owed no service to her. He took Mr. Gross at his word and filed no appeal brief. Because no brief was filed the attorney for the Arkansas Department of Human Services, the appellee, filed a Motion to Dismiss the Appeal. Mr. Hash did not respond to the Motion. The appeal was dismissed by the Court on January 14, 2004. Mr. Hash did not make an attempt to have the appeal reinstated. Ms. Foreman made efforts to have the appeal reinstated but was unsuccessful.

In mitigation Mr. Hash explained that he is no longer engaged in the private practice of law. He now has a more structured and supported state position. Mr. Hash also explained to the Committee that he was ill advised in his selection of a partner and that he is no longer associated with Mr. Gross.

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

1. That Mr. Hash's conduct violated Model Rule 1.1 when he failed to be thorough enough in his representation of Ms. Foreman to make certain that he filed a timely brief on her behalf in the Arkansas Court of Appeals matter with case number CA 03-529. Model 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. Hash's conduct violated Model Rule 1.2(a) because despite the fact that his client, Ms. Foreman, wished to pursue an appeal of the judgment adverse to her from Sebastian County Circuit Court, he failed to file a brief on or before December 1, 2003, nor did he ever seek an additional extension of time in which to file a brief. He merely did not file a brief and allowed the appeal to be dismissed. Model Rule 1.2(a) requires that a lawyer abide by a client's decision

concerning the objectives of representation, subject to paragraphs (c), (d), and (e), and consult with the client as to the means by which they are to be pursued.

3. That Mr. Hash's conduct violated Model Rule 1.3 when he failed to file a brief on behalf of Ms. Foreman despite having been granted an extension of time to do so until December 2003. Model Rule 1.3 requires that a lawyer act with reasonable diligence and promptness in representing a client.
4. That Mr. Hash's conduct violated Model Rule 3.4(c) when he failed to file a brief on behalf of Ms. Foreman despite being responsible for her appeal, since he entered an appearance in the appeal and received notification from the Court when the appeal brief was due to be filed. He was never relieved by the Arkansas Court of Appeals from the representation of Ms. Foreman after entering his appearance in the appeal with case number CA 03-529. 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.
5. That Mr. Hash's conduct violated Model Rule 8.4(d) because his failure to file a brief on behalf of Ms. Foreman or to take any steps to obtain an additional amount of time for filing a brief, resulted in Ms. Foreman losing the opportunity to pursue an appeal of the adverse decision from Sebastian County Circuit Court. 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 B, that K. DANIEL HASH, Arkansas Bar ID# 2000009, be, and hereby is, CAUTIONED for his conduct in this matter. Further, pursuant to Section 18.A. of the Procedures, Mr. Hash is assessed the costs of this proceeding in the amount of \$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.

ARKANSAS SUPREME COURT COMMITTEE ON  
PROFESSIONAL CONDUCT - PANEL B

By: \_\_\_\_\_

J. Michael Cogbill, Chair, Panel B

Date: \_\_\_\_\_