

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT

PANEL B

IN RE: ROBERT A. NEWCOMB

ARKANSAS BAR NO. 73087

CPC DOCKET NO. 2004-152

FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee by the Arkansas Supreme Court on September 9, 2004. The information related to the representation of Andre L. Crawford by Mr. Newcomb in 2003 and 2004.

Robert A. Newcomb, Attorney at Law, Little Rock, Arkansas, represented Andre Lamont Crawford in Phillips County Circuit Court. A Judgment and Commitment Order was entered in the Phillips County Circuit Clerk's office on December 15, 2003 and a timely Notice of Appeal was filed on January 8, 2004. The record of the proceedings in Phillips County Circuit Court were not filed with the Arkansas Supreme Court by April 7, 2004. The record was tendered to the Arkansas Supreme Court Clerk on July 9, 2004, but was refused as untimely. On July 15, 2004, Mr. Newcomb filed a Motion for Rule on the Clerk. The Arkansas Supreme Court granted the motion on September 9, 2004, and referred the matter to the Office of Professional Conduct.

Mr. Newcomb filed a response to the formal complaint and stated that there were extenuating circumstances. On March 26, 2004, Mr. Newcomb filed a motion for enlargement of time after being notified that the court reporter was unable to prepare a transcript. On March 24, 2004, twelve (12) days prior to the expiration of the time to lodge the record with the Arkansas Supreme Court, an Order was faxed to Circuit Court Judge L.T. Simes. The Order was signed on April 7, 2004, but not filed with the Phillips County Circuit Clerk until April 14, 2004. Mr. Newcomb acknowledged the Arkansas Supreme Court's position that it is always the responsibility of counsel to have appeals lodged in a timely fashion but denied that there was a violation of the Model Rules.

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 B of the Arkansas Supreme Court Committee on Professional Conduct finds:

1. That Robert A. Newcomb violated Model Rule 1.3 when he failed to undertake the necessary steps to obtain a timely Order extending the time to file the record on appeal beyond the initial ninety (90) day limit of the Rules of the Supreme Court and when he failed to file in a timely manner, the record of the proceedings in Phillips County Circuit Court with the Arkansas Supreme Court Clerk. Model Rule 1.3 requires that a lawyer act with reasonable diligence and promptness in representing a client.

2. That Robert A. Newcomb violated Model Rule 8.4(d) when his failure to file the record in a timely manner with the Arkansas Supreme Court Clerk resulted in a delay in the orderly and timely resolution of appellate proceedings and required the Court to expend additional time and effort which would not have been necessary otherwise. 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 ROBERT A. NEWCOMB, Arkansas Bar ID No. 73087, be, and hereby is, CAUTIONED; fined the sum of FIVE HUNDRED (\$500.00); and assessed costs in the amount of FIFTY DOLLARS (\$50.00) for his conduct in this matter. 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 B

By: _____

J. Michael Cogbill, Chair, Panel B

Date: _____