

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT
PANEL B

IN RE: Q. Byrum Hurst, Jr., Respondent
 Arkansas Bar ID#74082
 CPC Docket No. 2003-138

CONSENT FINDINGS AND ORDER

The formal charges of misconduct upon which this Consent Findings and Order is based arose from information brought to the attention of the Office of Professional Conduct. The information related to the representation of Johnny Paul Dodson by Q. Byrum Hurst, Jr. (“Respondent” herein), Attorney at Law, Hot Springs, Arkansas, in 2002 and 2003.

Johnny Paul Dodson (“Dodson” herein) was convicted in Garland County Circuit Court of Possession of Methamphetamine with Intent to Deliver and of Possession of Marijuana. Dodson, an habitual offender, was sentenced to life imprisonment in the Arkansas Department of Correction. A Judgment and Commitment Order was filed with the Garland County Circuit Clerk’s Office on March 19, 2002. Respondent filed a timely Notice of Appeal on March 26, 2002.

Respondent filed a Motion for Enlargement of Time To File Appellant’s Brief on September 27, 2002. The Arkansas Supreme Court granted Respondent until November 29, 2002, to file the brief.

Respondent filed a second Motion for Extension of Time to File Appellant Brief on November 25, 2002. The Arkansas Supreme Court granted Respondent until December 29, 2002, to file the brief.

A third Motion for Extension of Time was filed by Respondent on December 27, 2002. The Arkansas Supreme Court granted the motion and extended the time to file Dodson’s brief to January 12, 2003.

Respondent filed a fourth Motion for Extension of Time to file the brief on January 13, 2003. The Arkansas Supreme Court granted the Motion and extended the time to file the brief to January 22, 2003. No brief was filed on or before January 22, 2003.

On February 14, 2003, Respondent filed a Motion to File Belated Brief. The Arkansas Supreme Court granted the Motion and the brief was filed on March 6, 2003. The brief filed was not, however, in compliance with Rule 4-3(h) of the Rules of Supreme Court.

The Arkansas Attorney General's Office filed a Motion to Direct Compliance with Rule 4-3(h) on April 28, 2003. The Arkansas Supreme Court granted the Motion on May 15, 2003 and notified Respondent of the duty to file a brief that conformed to Rule 4-3(h). Respondent stated that he believed that he needed only to file a Supplemental Abstract and prepared one. However, when Respondent's secretary delivered the Supplemental Abstract to the Court, the Clerk's office informed her that the Court wanted a completely new brief and would not accept the Supplemental Abstract. As a result, Respondent had to file on June 23, 2003, a Motion for Extension of Time to file the brief. The Arkansas Supreme Court granted Respondent's Motion and the date for filing the brief was extended to June 29, 2003. The extension was designated as a final extension. Neither a brief nor a motion for extension of time were filed on or before June 29, 2003, on behalf of Dodson by Respondent.

On July 24, 2003, the Arkansas Attorney General's Office filed a Motion to Dismiss Dodson's appeal. No response to the motion was filed by Respondent. On September 24, 2003, the Arkansas Supreme Court granted the State's motion.

Respondent admitted that he violated Model Rule 1.3 of the Model Rules of Professional Conduct. Respondent offered for mitigation the fact that he has an extremely active trial and appellate practice, an active participation on various community and professional boards. Respondent also stated that during his thirty (30) years of practice he has never failed to file brief on behalf of a client.

Upon consideration of the formal complaint and attached exhibit materials, the response to it, the proposed Consent Findings and Order, 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:

That Attorney Q. Byrum Hurst, Jr. violated Model Rule 1.3 when, after receiving an extension of time to file a brief on or before January 22, 2003, and failed to do so; when he failed to file a brief in compliance with Rule 4-3(h) of the Rules of the Supreme Court on behalf of his client, Johnny Paul Dodson; and, when he failed to submit any response to the Motion to Dismiss

Appeal which was filed by the Attorney General's office on July 24, 2003, and granted on September 4, 2003. Model Rule 1.3 requires that a lawyer act with reasonable diligence and promptness in representing a client.

WHEREFORE, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct, acting through its authorized Panel B, that Q. Byrum Hurst, Jr., Arkansas Bar ID#74082, be, and hereby is, REPRIMANDED for his conduct in this matter; fined the sum of Five Hundred Dollars (\$500.00); and assessed costs in the amount of Fifty Dollars (\$50.00). 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 with 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: _____

John L. Rush, Chairman, Panel B

Date: _____