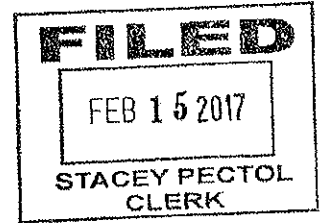


BEFORE THE ARKANSAS SUPREME COURT
COMMITTEE ON PROFESSIONAL CONDUCT
PANEL A



IN RE: **HAROLD DAVID ("H. D.") NATIONS**, Respondent
Arkansas Bar ID # 2013215
CPC Docket No. 2016-151 (Thomas)

FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based were developed from information provided to the Committee by Ashley Thomas (Ms. Thomas) in January 2016. The information related to the representation of Thomas in a custody revision matter by Respondent Harold David Nations, an attorney practicing primarily in Heber Springs, Cleburne County, Arkansas. On December 5, 2016, Respondent was served with a formal complaint, supported by the affidavit of Ms. Thomas. Respondent failed to file a response to the complaint, which failure to timely respond, pursuant to Section 9.C(4) of the Procedures, constitutes an admission of the factual allegations of the formal complaint and extinguishes Respondent's right to a public hearing.

1. As Ashley Davis at the time, Ashley Thomas had sons Trip and Jackson by Jeffrey Mix. Paternity of the sons by Mix was determined in December 2012 in Cleburne County Circuit Court Case No. 12DR-12-282.

2. In early 2015, Ms. Thomas needed a custody revision with Mix regarding their sons before they would start school in August 2015, so she could enroll them in schools closer to her near Damascus. Mix's military status was a factor in the location of the sons' schools. The Thomases employed Nations, a Heber Springs attorney, in April 2015 for the legal work. Heath Thomas (Mr. Thomas), husband of Ashley, gave Nations his undated check for \$2,500,

which Nations negotiated on July 14, 2015.

3. As shown by texts between Nations and Ms. Thomas starting April 7, 2015, through September 29, 2015, Nations informed them he was working on the papers for their matter. Then as the start of school approached in late July 2015, Nations had not served the father Mix and issues arose with the Thomases. Mix was going to enroll the sons in school in Quitman or Heber Springs or Rosebud, when Ms. Thomas was trying to get them into Bee Branch.

4. On August 3, 2015, Nations texted Ms. Thomas that he was going to transfer their matter to Conway attorney Joe Denton. On August 21, 2015, Mr. Thomas texted Nations and asked for the refund of the \$2,500 so the Thomases could get their own attorney. On September 10, 2015, Nations texted the Thomases that he had shifted a lot of his cases to other attorneys and his accountant was doing something for him, possibly about their refund. By text on September 15, 2015, Nations was confirming to the Thomases he would pay them the \$2,500 refund when he had it, so they could hire Denton if they desired to. In an effort to contact Nations, Mr. Thomas even contacted Nations' then-lady friend to try to get Nations' attention.

5. Ms. Thomas contacted Joe Denton and was informed he had not heard from Nations about the Thomas-Mix matter.

6. Nations has made no refund to the Thomases, despite promising to do so.

7. Without the funds the Thomases paid Nations, they did not have funds to employ another attorney on this matter.

8. On January 15, 2016, Ms. Thomas filed a grievance against Nations with the Office

of Professional Conduct. The file was assigned to Stark Ligon, who contacted Nations, who responded.

9. On July 2, 2016, Ligon requested that Nations write the Thomases. On September 12, 2016, Nations provided Ligon a copy of the letter (dated July 5, 2014) purportedly mailed to the Thomases. The Thomases state they have received no letter of any kind from Nations.

10. The Thomases heard that since Nations' dealings with and abandonment of them in 2015, and court documents show, Nations continued to accept and represent clients in other court matters in Cleburne County.

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

A. The conduct of H. D. Nations violated Rule 1.3 in that in April 2015, the Thomases employed Nations to file for a change of custody for Ashley Thomas's two young sons by August 2015 where time was of the essence, paid Nations his \$2,500 fee by mid-July 2015, and he took no action on their behalf by early August 2015, when he texted them that he would transfer their file to an attorney friend who might be able to assist them. Arkansas Rule 1.3 requires that a lawyer shall act with reasonable diligence and promptness in representing a client.

B. The conduct of H. D. Nations violated Rule 1.16(d) in that after receiving \$2,500 from Heath Thomas by July 14, 2015, which included his legal fee and any court fees for the court work to be done on custody of the children of Ashley Thomas in Cleburne County Circuit No. DR-12-282, Nations failed to file anything in her case, abandoned her as a client,

and failed to account to the Thomases for his use of their funds and failed to refund the unearned portion of his fee and any funds he held for her court fees. Arkansas Rule 1.16(d) requires that, upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee or expense that has not been earned or incurred. The lawyer may retain papers relating to the client to the extent permitted by other law.

C. The conduct of H. D. Nations violated Rule 8.4(c) in that (1) Nations made a false statement by text message to his clients Heath and Ashley Thomas on August 3, 2015, when he informed them he would be transferring their fee paid to Nations to a good lawyer in Conway who would pick up their legal matter, and Nations failed to transfer the fee, (2) Nations made a false statement by text message to his clients Heath and Ashley Thomas on September 15, 2015, when he informed them he would be refunding their fee paid to Nations, he did not have the funds then, and he never refunded any amount to the Thomases, and (3) Nations continued to take clients and file or enter their new matters in late 2015 and 2016 after he had abandoned the Thomases as his clients and had informed them he would be making a refund of fee to them. Arkansas Rule 8.4(c) provides that it is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

E. The conduct of H. D. Nations violated Rule 8.4(d) in that in 2015, Nations accepted his full \$2,500 fee plus any court fees required to file for a change of custody for Ashley

Thomas, did no work and filed no pleadings for her, then abandoned her as a client in September 2015, leaving her without funds to obtain the services of a new attorney to pursue the legal relief she needed. Arkansas Rule 8.4(d) provides that it is professional misconduct for a lawyer to 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 the Arkansas law license of **HAROLD DAVID NATIONS, Arkansas Bar ID# 2013215**, be, and hereby is, **SUSPENDED FOR SIXTY (60) MONTHS** for his conduct in this matter. Nations is also assessed standard case costs of \$50.00 and ordered to pay \$2,500.00 restitution for the benefit of Heath and Ashley Thomas. As a condition of his future reinstatement from suspension, Nations shall provide adequate proof of payment of the restitution. For his failure to file any response to the Complaint, Nations is further sanctioned with a separate **REPRIMAND**.

The suspension shall become effective on the date this Findings and Order is filed of record with the Clerk of the Arkansas Supreme Court, and shall be concurrent from its effective date with any other suspension on Respondent now in effect or imposed. The costs and restitution 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: Steven Shults
Steven Shults, Chair, Panel A

Date: January 24, 2017