

BEFORE THE ARKANSAS SUPREME COURT
COMMITTEE ON PROFESSIONAL CONDUCT

PANEL A

IN RE: ANN C. DONOVAN
Arkansas Bar ID #78043
CPC Docket No. 2017-020

CONSENT FINDINGS AND ORDER

The formal charges of misconduct against Ann C. Donovan upon which this Findings and Order is based arose from a grievance filed by Misty Rupert. Ms. Donovan is an attorney practicing primarily in Rogers, Arkansas. Following Ms. Donovan's receipt of the formal complaint, Ms. Donovan and counsel entered in to discussion with the Executive Director which resulted in an agreement by consent pursuant to Section 20.B of the Arkansas Supreme Court Procedures Regulating Professional Conduct of Attorneys at Law (2011).

Ms. Donovan represented Ms. Rupert in a Social Security Disability case. On November 30, 2016, Social Security sent notice to Rupert and Donovan that the reconsideration request was reviewed, but the outcome would not change. The notice stated that an appeal should be filed within 60 days if she disagreed with the decision. Rupert checked in with Donovan's office regarding her case. Rupert usually spoke with Donovan's assistant, Kyle. Rupert provided information to Kyle regarding information for reconsideration and appeal for a hearing. Rupert continued calling in to Donovan's office and was told these types of cases took time and to wait. On February 13, 2017, Rupert's request for a hearing was received with Social Security. This was more than sixty-five (65) days after the November 30, 2016, notice.

On April 7, 2017, Social Security sent Rupert and Donovan a letter stating that Rupert's request for a hearing was received after the "60-day limit" and did not contain a statement or information about why the request was not timely filed. Upon receiving the letter from Social Security, Rupert contacted Donovan's office via Facebook messaging to find out more information. On April 11, 2017, Donovan called Rupert on the phone and spoke with her regarding the case and issues. Donovan blamed her assistant Kyle for the delay. On April 19, 2017, Donovan sent a fax to Social Security which included a letter stating that Donovan's office filed the request for hearing as well as explanation of delay for good cause. Donovan provided a copy of the letter that she claimed had been sent by her office. The letter explaining the cause for delay claimed that Donovan had been out for medical reasons.

On April 19, 2017, Donovan informed Rupert via Facebook that her office submitted the information to the judge and that she should know something soon. On May 5, 2017, Social Security sent Rupert and Donovan a letter and Order of Dismissal. The Order of Dismissal stated that Rupert's request was not timely filed that the claim for delay based on Donovan's medical issues did not establish good cause. The order points out that Donovan had appeared before the judge during the time for which she claims injury from a motor vehicle accident and further stated "there is no reason that her staff could not have filed a one-page document stating the appeal." On May 8, 2017, Rupert received the letter from Social Security and contacted Donovan's office to terminate Donovan as her attorney. On May 9, 2017, Donovan submitted a letter to Social Security withdrawing from Rupert's case and waiving any fee.

On May 11, 2017, Rupert sent a Request to Vacate Notice of Dismissal to Social Security which received it on May 15, 2017. Rupert detailed her dealings with Donovan and Donovan's office. Rupert asked the judge to vacate previous decision and stated "I personally did

everything I believed was my responsibility to get my case to hearing. I have fired Ann [Donovan] and will proceed until further notice PRO SE....”

On May 18, 2017, ALJ Alexis Murdock sent Rupert Notice of Vacating Dismissal and Reopening Case as well as a copy of the order doing so. The order states that the ALJ “re-evaluated [Rupert’s] new and material evidence and have found good cause to vacate the dismissal order and to reopen Ms. Rupert’s claim...one of the potential good cause reasons for missing the deadline to file her request for hearing is that the claimant relied upon the representative to file the request for hearing.”

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

Ann C. Donovan violated Rule 1.1 when: (1) she failed to timely file Request for Hearing on behalf of her client, Misty Rupert, and (2) she filed a late Request for Hearing on behalf of her client, Misty Rupert, Donovan did not include documentation supporting a good cause reason that the Request was not timely filed.

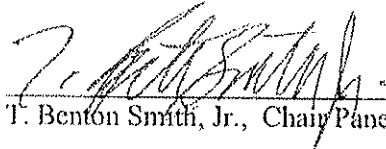
Ann C. Donovan violated Rule 1.3 when: (1) she failed to timely file Request for Hearing on behalf of her client, Misty Rupert, as the Request was filed on February 13, 2017 which is in excess of the sixty day limit following the November 30, 2016 determination, and (2) she filed a late Request for Hearing on behalf of her client, Misty Rupert, Donovan did not include documentation supporting a good cause explanation that the Request was not timely filed.

Ann C. Donovan violated Rule 5.3(b) when she failed to adequately supervise her office staff resulting in the failure of a timely filing on behalf of her client, Misty Rupert.

Ann C. Donovan violated Rule 8.4(d) when: (1) she failed to timely file a Request for Hearing on behalf of her client, Misty Rupert, (2) she failed to file an explanation stating good cause for why the Request for Hearing filed on behalf of Misty Rupert was not timely filed, and (3) the Administrative Law Judge ordered Misty Rupert's case re-opened based upon Donovan's role in creating the circumstance that resulted in the original denial of Rupert's earlier request.

WHEREFORE, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct, acting through its authorized Panel A, that Ann C. Donovan, Arkansas Bar ID# 78043 be, and hereby is, **SUSPENDED for a period of twenty-four (24) months, STAYED**, for her conduct in this matter, and ordered to pay \$50 costs. Conditions of Stayed Suspension are set out in a separate Order of Stayed Suspension. 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



T. Benton Smith, Jr., Chair Panel A

Jan. 19 2018
Date