

BEFORE THE ARKANSAS SUPREME COURT
COMMITTEE ON PROFESSIONAL CONDUCT
PANEL B

IN RE: **ROBERT ALSTON NEWCOMB**, Respondent
Arkansas Bar ID # 73087
CPC Docket No. 2017-025

CONSENT FINDINGS & ORDER

The formal charges of misconduct upon which this Consent Order is premised, involving respondent attorney Robert A. Newcomb of Little Rock, arose from information brought to the attention of the Committee on Professional Conduct by Ms. Bernstine Bullard. Following Respondent Attorney's receipt of the formal complaint, the attorney entered into discussion with the Executive Director which has resulted in an agreement to discipline by consent pursuant to Section 20.B of the Arkansas Supreme Court Procedures Regulating Professional Conduct of Attorneys at Law (2011). The facts are:

1. In 2014, the Arkansas Department of Correction (ADC), where Bullard had been employed since 2004, declined to promote her to Assistant Director for Re-entry and promoted a white male to that position.
2. The final authority on the promotion was ADC Director Ray Hobbs, a black male.
3. Bullard filed a discrimination complaint with EEOC, which investigated, closed the file, and issued Bullard a "right to sue" letter.
4. Bullard employed Newcomb to file a federal lawsuit against ADC on the matter, which he did in September 2015 as Case No. 15-cv-300.
5. Bullard wanted to be very involved in her case, required Newcomb to keep her fully informed on her matter, contacted him regularly, and he did not maintain the degree and

frequency of communication she expected.

6. The ADC filed a motion for partial summary judgment. Newcomb filed a response for Bullard three days late. The motion was granted and two of Bullard's claims of discrimination were lost.

7. Bullard was deposed by ADC in October 2016, and there she claims she first learned that a partial summary judgment had earlier been granted against her and two of her three discrimination claims had been dismissed.

8. Thereafter, her many requests that Newcomb keep her informed of the progress of her case went without responses satisfactory to her.

9. In February 2017, ADC filed a motion for summary judgment, to which Newcomb failed to file any response.

10. In late March 2017, the federal magistrate judge issued his Recommended Disposition, noting Newcomb had failed to file a response, and then on the merits finding summary judgment was appropriate and Bullard's remaining claim should be dismissed with prejudice. Bullard decided to not make the judge's recommendation a part of her exhibits to her affidavit here. The federal district judge adopted the recommendation and dismissed Bullard's case.

11. Newcomb wrote Bullard on May 4, 2017, informing her that her case had been dismissed on a summary judgment motion, she would probably not have won anyway, and offering to reimburse her what she had paid him and he owed her, if she would let him know what that was.

12. After being notified by OPC of the filing of the Bullard grievance, on June 23,

2017, Newcomb wrote OPC stating he had been dealing with medical issues and that he did not deal with Bullard's matter in a proper manner. On October 4, 2017, Newcomb wrote OPC that, while no excuse for his neglect of the client matter, he believed there was a substantial chance she would not have prevailed in her case.

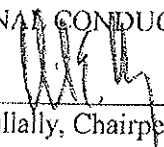
Upon consideration of the formal complaint and attached exhibits, admissions made by the respondent attorney, the terms of the written consent, the approval of Panel B of the Committee on Professional Conduct, and the Arkansas Rules of Professional Conduct, the Committee on Professional Conduct finds:

A. The conduct of Robert A. Newcomb violated Rule 1.4(a)(3) in that during his representation of her, Newcomb failed to keep Ms. Bullard reasonably informed about the status of her federal lawsuit matter, including the ADC filing of and Newcomb's failure to respond or to timely respond to two motions for summary judgment where Bullard lost claims she was pursuing. Arkansas Rule 1.4(a)(3) requires that a lawyer shall keep the client reasonably informed about the status of the matter.

WHEREFORE, in accordance with the consent to discipline presented by Mr. Newcomb and the Executive Director, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct that Respondent Robert A. Newcomb, Arkansas Bar No. 73087, be, and hereby is, CAUTIONED for his conduct in this matter, fined \$250, and ordered to pay \$1,000 restitution to Ms. Bernstine Bullard. The fine and restitution assessed herein, totaling \$1,250, 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 
Michael E. Mullally, Chairperson, Panel B

Date 10/19/18