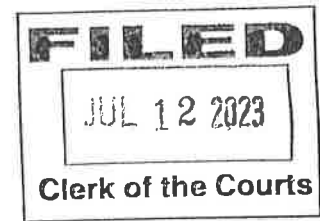


BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT
PANEL D

IN RE: CECILY PATTERSON SKARDA
 ARKANSAS BAR ID #98114
 CPC Docket No. 2023-004



FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from a grievance filed by Barbara Patterson (Patterson). Cecily Patterson Skarda (Skarda) is an attorney licensed to practice law in the State of Arkansas and assigned Bar Number 98114.

1. Patterson hired Skarda in December 2018, for appeal of a divorce ruling. She paid Skarda \$10,000.00 for her representation on the appeal. Skarda was also paid \$735.35 for expenses of the appeal.

2. The Divorce Decree was filed on December 14, 2018, and Skarda filed the Notice of Appeal on January 3, 2019. Pursuant to Arkansas Rules of Appellate Procedure-Civil, Rule 5 the record was due to be lodged within 90 days from the filing of the Notice of Appeal, which was April 11, 2019.

3. On January 22, 2019, Skarda contacted, Leigh Ann Cook (Cook), and left a voicemail regarding preparation of the transcript. Prior to Cook serving as court reporter for the divorce hearing, there was another court reporter, Ms. Glenda Vaughn.

4. Cook responded by email to Skarda's voicemail message advising her that the phone call was the first Cook had heard of an appeal and that a deposit needed to be made before Cook would begin preparing the transcript.

5. Skarda advised Cook that she had forwarded the Notice of Appeal and request for financial arrangements to the judge's trial court assistant as instructed by the circuit clerk's office.

6. Cook, by email, advised Skarda the cost of the transcript would be \$1,800.00, which included two days of pretrial matters and two full days of trial. Skarda advised she had mailed the check out that day.

7. On January 28, 2019, Skarda emailed Cook asking when she could expect the transcript, with Cook responding the transcript was due in the clerk's office by April 1, 2019. Cook advised she would send Skarda a pdf when she took it to the clerk.

8. On March 15, 2019, Skarda sent a letter to the court confirming a previous request for the complete transcript in the case to also include pleadings and hearings occurring after the Notice of Appeal was filed.

9. In March 2019, Cook completed and notarized the transcripts from the proceedings held on February 23, 2018, March 27, 2018, June 1, 2018, and August 3, 2018.

10. On March 25, 2019, Skarda emailed Cook requesting the transcript be supplemented with all pleadings and proceedings since entry of the Divorce Decree.

11. On April 5, 2019, Skarda emailed Cook regarding the status of the transcript as the deadline for lodging was quickly approaching.

12. On April 8, 2019, Cook responded that she did not have Skarda's amended notice of appeal to add it. Cook also advised it would take time for clerk to assemble the record once it is received and the clerk was out of town. Cook advised she asked the circuit judge to sign an extension if Skarda would fax it to the judge.

13. On April 8, 2019, Skarda then sent the Motion for Extension of Time to Lodge the Record and Amended Notice of Appeal that she filed to Cook by email. She also emailed the proposed precedent for order for extension of time to the judge.

14. As the proceedings were recorded by two different court reporters, Cook emailed the first court reporter, Vaughn, to advise Cook could pick up her completed transcript if it was ready and that Skarda had sent her an extension that morning so there was no rush on completing it.

15. The precedent order for the extension from Skarda's April 8 email to the judge was never filed with the clerk, although it was signed by the judge. Skarda failed to confirm with the Conway County Circuit Clerk that the precedent for order had been filed of record.

16. On April 12, 2019, Vaughn advised Cook that she had not been paid yet for completion of her portion of the transcript.

17. In May 2019, Cook completed and notarized the transcripts from the proceedings held on May 3, 2018, and August 3, 2018.

18. On May 30, 2019, Cook delivered completed transcripts to the clerk's office for Skarda to pick believing that Skarda had entered an extension of time to prepare the transcript making the transcripts due June 10, 2019.

19. On June 3, 2019, Cook emailed Skarda regarding the remaining balance which needed to be paid and an outstanding balance owed to the first court reporter before she could pick up the transcript from the circuit clerk. Skarda did not respond to this email.

20. On June 4, 2019, Skarda filed a second Motion for Extension of Time to Lodge the Record.

21. On June 5, 2019, Cook again emailed Skarda to confirm receipt of her June 3 email. Skarda did not respond to this email.

22. On June 7, 2019, Cook emailed Skarda a third time to confirm receipt of the June 3 email and the balance owed on the transcript. Skarda failed to respond to this email.

23. In addition to the June 7 email, Cook also sent Skarda a letter on that day advising her that the transcripts were delivered to the circuit clerk on March 30, 2019, and the clerk had completed her portion of the record. Cook acknowledges that the letter contains a typographical error in that the transcripts were delivered to the Conway Circuit Clerk on May 30, 2019, and not March 30, 2019.

24. On June 18, 2019, the court filed and faxed Skarda a letter regarding the April 9, 2019, Order for Extension of Time to Lodge Record advising her that the precedent for order was returned to her and that his office does not file orders that he signs. The court denied Skarda's second request for an extension *Nunc pro tunc*.

25. The appeals case was docketed in the Arkansas Court of Appeals as *Barbara Patterson vs. Dorsey Patterson*, CV-19-511.

26. On June 21, 2019, Skarda filed Appellant's Motion for Rule on Clerk and Motion to Supplement Record.

27. On August 1, 2019, the appellate court denied Skarda's motion.

28. Because of Skarda's failure to lodge the record in time, Patterson lost her right to an appeal of the lower court's decision.

29. Skarda failed to communicate with Patterson and advise her that her appeal had been dismissed. Patterson found out her appeal had been dismissed when she searched the Pulaski County website for information on her appeal.

30. Skarda has not refunded any of the \$10,000.00 fee or expenses Patterson paid her to represent her in the appeal that has been dismissed. As the appeal was dismissed for Skarda's failure to lodge the record in the required time, which ended Skarda's representation of Patterson, Skarda did not have to perform any appellate services such as briefing the appeal.

Upon consideration of the formal complaint and attached exhibit materials and the Arkansas Rules of Professional Conduct, Panel D of the Arkansas Supreme Court Committee on Professional Conduct finds:

1. That Skarda's conduct violated Rule 1.1 when she failed to confirm the filing of the signed April 9, 2019, Order for Extension of Time to Lodge the Record with the Conway County circuit clerk's office. Arkansas Rule 1.1 states a lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

2. That Skarda's conduct violated Rule 1.3 when she failed to lodge the record before the expiration of time to do so, causing Patterson to miss her opportunity to appeal the lower court's ruling. Arkansas Rule 1.3 states a lawyer shall act with reasonable diligence and promptness in representing a client.

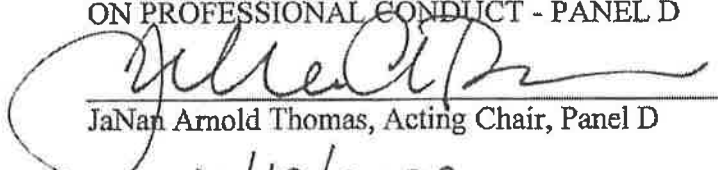
3. That Skarda's conduct violated Rule 1.4(a)(3) when she failed to inform Patterson that her appeal had been dismissed for Skarda's failure to lodge the record. Patterson found out when she searched the Pulaski County website for information on her appeal. Arkansas Rule 1.4(a)(3) states a lawyer shall keep the client reasonably informed about the status of the matter.

4. That Skarda's conduct violated Rule 1.16(d) when she failed to return any of the \$10,000.00 fee or expenses Patterson paid her for her representation in an appeal. As the appeal was dismissed for Skarda's failure to lodge the record in the required time, which ended Skarda's representation of Patterson, Skarda did not have to perform any appellate services such as briefing the appeal. Arkansas Rule 1.16(d) states 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.

WHEREFORE, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct, acting through its authorized Panel D, that CECILY PATTERSON SKARDA Arkansas Bar ID #98114, be, and hereby is, **REPRIMANDED** for her conduct in this matter. In assessing the sanction, the attorney's prior disciplinary record was a factor. Skarda shall pay restitution in the amount of TEN THOUSAND SEVEN HUNDRED THIRTY-FIVE DOLLARS AND THIRTY-FIVE CENTS (\$10,735.35) in accordance with Section 18.C of the Procedures. Skarda shall also pay costs in the amount of ONE HUNDRED FIFTY DOLLARS (\$150.00) in accordance with Section 18.A of the Procedures. The restitution and cost assessed herein totaling TEN THOUSAND EIGHT HUNDRED EIGHTY-FIVE DOLLARS AND THIRTY-FIVE CENTS (\$10,885.35) 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 D



JaNan Arnold Thomas, Acting Chair, Panel D

Date: 10/12/2023