

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT
PANEL B

IN RE: WILLIAM M. HOWARD, JR.
ARKANSAS BAR ID#87087
CPC DOCKET NO. 2005-103

CONSENT FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee by the Arkansas Supreme Court on June 23, 2005. The information related to the representation of James Lee Jackson by William H. Howard, Jr., Attorney at Law, Pine Bluff, Arkansas in 2004 and 2005.

William M. Howard, Jr., represented James Lee Jackson on appeal from a conviction of Murder-First Degree, in the Jefferson County Circuit Court to the Arkansas Supreme Court. Jackson had been represented by other counsel at trial. On September 24, 2004, Howard filed a motion to be substituted as attorney of record. This motion was denied as the motion did not state the reasons for the attempted withdrawal as required by the rules of procedure. On November 5, 2004, Howard filed a second motion to be substituted as counsel for Jackson. This motion was granted by the Court on November 11, 2004, and briefing was commenced.

On December 10, 2004, Howard filed a Motion for Extension of Time to file a brief on Jackson's behalf. The Motion was granted and Howard was granted until January 12, 2005, to file the brief.

On January 11, 2005, Howard filed a second Motion for Extension of Time to file a brief on Jackson's behalf. The Motion was granted and was designated as a "Final Extension." Howard was granted until January 27, 2005, to file the brief on behalf of Jackson.

On January 27, 2005, Howard tendered to the Court a brief on behalf of his client. The brief contained errors and was not accepted by the Arkansas Supreme Court Clerk. On January 31, 2005, Howard filed a Motion for Time to Correct Brief. The Motion for Time to Correct Brief was granted and Howard was allowed until February 8, 2005, to make the necessary corrections. The notice sent to Howard was designated as a

“Final Extension.”

On February 8, 2005, Howard tendered to the Court a corrected brief on behalf of his client. Even though it was a corrected brief, Howard was notified that the corrected brief still had errors which needed to be corrected. On February 14, 2005, Howard tendered to the Clerk a Motion to File Belated Corrected Brief.

The Arkansas Supreme Court issued a *per curiam* order on March 10, 2005, wherein it granted Howard’s motion and extended the time to file the belated corrected brief by ten days from the date of the *per curiam* order. The Court stated that no further extension would be granted. Further, the Court ordered Howard to appear on March 24, 2005, to show cause why he should not be held in contempt for failure to comply with the orders of the court.

On March 24, 2005, Howard appeared before the Arkansas Supreme Court pursuant to the March 10, 2005, Order. Howard entered a plea of not guilty to the contempt charge. On March 31, 2005, the Arkansas Supreme Court appointed the Honorable Jack Lessenberry to conduct a hearing on the contempt issue.

On June 14, 2005, the Honorable Jack Lessenberry conducted a hearing on the contempt issue. Following the hearing, Judge Lessenberry issued a report wherein he found that Howard was unable to give a plausible reason or justification as to why he could not have complied with the court’s directive and that a more reasonable explanation was that Howard did not devote the time necessary to comply with the rules and directives so as to complete the brief for filing. The Arkansas Supreme Court reviewed the findings of Judge Lessenberry and, on June 23, 2005, issued a *per curiam* order adopting the findings. Howard was found in contempt of court for failing to perfect the appeal of his client, James Lee Jackson, and was fined the sum of five hundred dollars (\$500.00) plus costs incurred in the hearing before the special master. The Arkansas Supreme Court thereafter referred the matter to the Committee on Professional Conduct.

On August 5, 2005, Respondent was served with a formal complaint. A response was filed. Mr. Howard and the Executive Director negotiated a discipline by consent proposal, which was submitted to Panel B.

Upon consideration of the formal complaint and attached exhibit materials, the response, the consent proposal, 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:

1. That WILLIAM M. HOWARD, JR., violated Model Rule 1.1 when he failed to present a brief by January 27, 2005, which complied with the Rules of the Arkansas Supreme Court; failed to present a brief by February 8, 2005, which complied with the Rules of the Arkansas Supreme Court; and failed to demonstrate a lack of legal knowledge or skill as to represent his client, James Lee Jackson. Model Rule 1.1 requires that a lawyer provide competent representation to a client. Competent representation requires legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

2. That WILLIAM M. HOWARD, JR., violated Model Rule 1.3 when he failed to file in a timely manner with the Arkansas Supreme Court, a brief by the January 27, 2005, deadline which was designated as a “final extension” and when he failed to file in a timely manner, a brief by the February 8, 2005, deadline which was designated as a “final extension.” Model Rule 1.3 requires that a lawyer act with reasonable diligence and promptness in representing a client.

3. That WILLIAM M. HOWARD, JR., violated Model Rule 8.4(d) when he failed to file a brief which complied with the Rules of the Arkansas Supreme Court which delayed the orderly and timely resolution of appellate proceedings; required the Court to expend additional time and effort which would not have been necessary otherwise; and resulted in a finding of contempt for his conduct in the matter. Model Rule 8.4(d) requires that a lawyer not 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 B, that WILLIAM M. HOWARD, JR., Arkansas Bar ID# 87087, be, and hereby is, REPRIMANDED for his conduct in this matter and assessed costs in the amount of FIFTY DOLLARS. 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 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: _____

J. Michael Cogbill, Chairman

Date: _____