

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT
PANEL B

IN RE: RICKEY H. HICKS
ARKANSAS BAR ID No. 89235
CPC Docket No. 2012-038

FILED

SEP 18 2012

FINDINGS AND ORDER

**LESLIE W. STEEN
CLERK**

The formal charges of misconduct upon which this Findings and Order is based arose from information obtained from the records of the Arkansas Supreme Court Clerk. The conduct related to the representation of Steven J. Russell in a criminal appeal from the Pulaski County Circuit Court.

Rickey H. Hicks is an attorney licensed in 1989 to practice law in the State of Arkansas and assigned Arkansas Bar Number 89235. Steven J. Russell was convicted in Pulaski County Circuit Court of Capital Murder and sentenced to the Arkansas Department of Correction to a term of life without the possibility of parole on February 3, 2012. Mr. Russell was represented at trial by Rickey H. Hicks and David Bowden. On February 7, 2012, Mr. Hicks and Mr. Bowden filed a joint notice of appeal.

Rule 4(b) of the Arkansas Rules of Appellate Procedure—Criminal, provides that the record on appeal shall be filed with the clerk of the appellate court and docketed therein within ninety days from the filing of the notice of appeal. As the notice of appeal was filed on February 7, 2012, the deadline for filing the record on appeal with the Arkansas Supreme Court Clerk was May 7, 2012. On May 7, 2012, Mr. Hicks and Mr. Bowden filed a Motion for Extension of Time To Lodge Record. No order was entered on or before May 7, 2012.

On June 7, 2012, at 11:18 a.m., the Pulaski County Circuit Court entered an order

granting the Motion for Extension of Time to Lodge Record. Also on June 7, 2012, at 2:35 p.m., the Pulaski County Circuit Court entered a second order granting the Motion for Extension of Time to Lodge Record. Rule 4(c)(1) states that the circuit court, by order entered before the expiration of the period prescribed by subdivision (b) of this rule or by a prior extension order, may extend the time for filing the record. As both June 7, 2012, orders were not entered on or before May 7, 2012, the orders were of no effect.

On June 6, 2012, the record was tendered to the Arkansas Supreme Court Clerk but the Clerk refused to file the record as the time ninety-day period for filing had expired. On June 7, 2012, Mr. Hicks and Mr. Bowden filed a Motion for Rule on the Clerk. On June 21, 2012, the Arkansas Supreme Court Clerk granted the Motion for Rule on the Clerk and referred the matter to the Committee on Professional Conduct.

Mr. Hicks filed an answer to the formal complaint filed by the Office of Professional Conduct. Mr. Hicks stated that he was the lead attorney at trial but the responsibility for the appeal was that of Mr. Bowden's, that he had little communication with the court or the clerk's office as Mr. Bowden had agreed to take on this task. Mr. Hicks stated that, as attorney of record, he is responsible for perfecting the appeal and accepted responsibility for the filing of the belated appeal.

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

1. Rickey H. Hicks' conduct violated Rule 1.3 when he failed to timely file the transcript on behalf of his client, Steven J. Russell, before the deadline of May 7, 2012. Rule 1.3 requires

that a lawyer act with reasonable diligence and promptness in representing a client.

2. Rickey H. Hicks' conduct violated Rule 8.4(d) when his failure to file the transcript on behalf of his client, Steven J. Russell, resulted in a delay in the orderly and timely resolution of appellate proceedings. Rules 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 RICKEY H. HICKS, Arkansas Bar No. 89235, be, and hereby is, CAUTIONED and assessed costs in the amount of FIFTY DOLLARS (\$50.00) for his conduct in this matter. Mr. Hicks had been previously sanctioned in two prior disciplinary matters involving appeals to the Arkansas Supreme Court and Court of Appeals. The Panel specifically finds that Mr. Hicks' prior disciplinary history involving appellate matters establishes a pattern of misconduct and said pattern is an aggravating factor as listed under Section 19.B. The costs awarded shall be payable by cashier's check or money order, issued to the "Clerk, Arkansas Supreme Court", and 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 B

By: Barry Deacon
Barry Deacon, Chairman

Date: Aug. 20, 2012