

**BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT
PANEL B**

**IN RE: ROBERT D. KLOCK, RESPONDENT
ARKANSAS BAR ID#76066
CPC DOCKET NO. 2012-029**

AGREED FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee by Cesar Perez and his new counsel, Nathan R. Bogart, in April 2011. The information related to the representation of Mr. Perez by Respondent, Robert D. Klock, an attorney practicing primarily in Bentonville, Arkansas, beginning in 2009.

The matter had been submitted to Panel A for ballot vote and Mr. Klock had received notice of that Panel's decision. Mr. Klock requested a public hearing and a hearing was scheduled for June 21, 2013. Prior to the commencement of the hearing, Mr. Klock, through his attorney, submitted a proposal to settle the matter.

The information before the Panel reflected that during 2009, Mr. Perez, an undocumented alien, hired Mr. Klock to represent him in removal proceedings initiated by the Immigration and Naturalization Service. Mr. Perez understood that the fee arrangement was a flat fee arrangement but there was no written fee agreement. Mr. Klock had not previously represented Mr. Perez in any matter. Receipts show that Mr. Perez paid Mr. Klock fees totaling \$9,110.00. According to Mr. Klock, Mr. Perez paid attorney fees for five separate matters totaling \$8,200 and still owes Mr. Klock \$1,100 for attorney fees and \$509 for travel expenses.

Mr. Perez hired Mr. Klock to represent him in the Immigration proceedings shortly after Mr. Perez was served a Notice to Appear by immigration authorities. Over the course of the representation, Mr. Perez supplied Mr. Klock with evidence that Mr. Perez believed would

support a cancellation of removal. A cancellation of removal is a type of relief allowing an alien to remain in the United States despite unlawful presence if it can be shown that (1) the alien has been present in the United States for more than ten years; (2) the alien possesses good moral character; (3) the alien has not been convicted of certain crimes; and (4) the alien has a United States citizen or legal permanent resident spouse, child, or parent who would suffer exceptional and extremely unusual hardship if the alien were to be removed to his or her country of origin. Much of the evidence Mr. Perez provided Mr. Klock concerned Mr. Perez's ten year presence in the United States and his good moral character. Certain specific documents which Mr. Perez provided Mr. Klock were photos dating back to 1999 and tax returns going back to 2003.

Mr. Klock and Mr. Perez appeared for a hearing on the cancellation of removal and the court denied the request. Mr. Perez thereafter terminated Mr. Klock's representation and employed Mr. Bogart. Despite requests from Mr. Perez and Mr. Bogart, Mr. Klock refused to provide copies of Mr. Perez's file. Mr. Klock's refusal was based on the assertion that Mr. Perez still owed him money. Mr. Klock's refusal to provide the information in Mr. Perez's file left Mr. Perez being severely limited in his ability to pursue an appeal or a Motion to Reopen. Though Mr. Klock denied that he would not send the file until payment was made, he admitted that he asked Mr. Bogart to remind Mr. Perez of the pending balance.

In his informal response to a request for information by the Office of Professional Conduct, Mr. Klock blamed the lack of obtaining the file more timely on Mr. Perez's failure to come pick it up. Mr. Klock also asserted his belief that Mr. Bogart filed the grievance in bad faith. Mr. Klock set out that Mr. Perez did not have a winnable case with regard to canceling removal, and that Mr. Klock explained that to Mr. Perez from the beginning of his representation

of him.

Mr. Bogart, who is now located and practicing Immigration Law in Lee's Summit, Missouri, explained differently, and provided certain documentation to demonstrate that Mr. Klock did not communicate with him as he said he attempted to do, nor did he make the file available immediately as he also asserted. Mr. Klock did not send the file to Mr. Bogart until after Mr. Klock was notified by the Office of Professional Conduct that a grievance had been filed against him. The file was not provided until over a month and a half after the first request was made and while post-judgment time limits were expiring. Mr. Bogart was able to file a Motion to Reopen and that matter was heard by Immigration Judge Rebecca Holt who, on June 13, 2011, entered a decision granting the motion.

Upon consideration of the formal complaint and attached exhibits, admissions made by the respondent attorney in his settlement offer, the terms of the proposal, the approval of Panel B of the Committee on Professional Conduct, and the Arkansas Rules of Professional Conduct, the Committee on Professional Conduct finds:

1. Robert D. Klock's conduct violated Rule 1.16(d), because after his representation of Mr. Perez was terminated, Mr. Klock failed to promptly deliver the file to new counsel so as to protect the interests of his former client. Rule 1.16(d) requires that upon termination of representation, a lawyer 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 B, that ROBERT D. KLOCK, Arkansas Bar ID No. 76066, be, and hereby is, CAUTIONED for his conduct in this matter. Mr. Klock is assessed costs in the amount of FIFTY DOLLARS (\$50.00) and agrees to pay restitution to CESAR PEREZ in the amount of FIVE THOUSAND DOLLARS (\$5,000.00). All fines and restitution assessed herein, totaling FIVE THOUSAND AND FIFTY DOLLARS (\$5,050.00) 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.

ARKANSAS SUPREME COURT COMMITTEE
ON PROFESSIONAL CONDUCT - PANEL B

By:/s/ Henry Hodges, Chair, Panel B

Date: June 21, 2013

Original filed with the Arkansas Supreme Court
on June 21, 2013.