

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT

**IN RE: JOSHUA QUINCY HURST
ARKANSAS BAR NO. 2004016
CPC DOCKET NO. 2013-038**

FINDINGS & ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from information filed by Cynthia Stone. The conduct related to Joshua Quincy Hurst's representation of Chauntyl Stone in the case of *Chauntyl Stone v. Eric A. McNeely*, Hot Spring County Circuit Court Case No. E-98-99-2 and Candace Spencer in the case of *Leon Spencer v. Candace M. Spencer*, Saline County Circuit Court Case No. DR 2010-878-4

Joshua Quincy Hurst is an attorney licensed in 2004 to practice law in the State of Arkansas and assigned Bar Number 2004016. Cynthia Stone is the mother of two daughters, Chauntyl Stone and Candace Michelle Spencer. Both daughters were involved in domestic relations matters.

Chauntyl Stone was a party to a paternity and child support action which was first filed in 1998 in Saline County. During the pendency of that case, Eric McNeely had been granted visitation rights. In 2009, Chauntyl Stone wanted to re-open the matter as there had been allegations of physical abuse of the minor child. On April 9, 2009, Cynthia Stone and Chauntyl Stone met with Mr. Hurst about representation of Chauntyl in the matter. Cynthia Stone paid Mr. Hurst One Thousand Dollars (\$1,000) for Chauntyl's representation. On May 21, 2009, Mr. Hurst filed a Motion for Contempt and Supervised Visitation. Mr. McNeely, through his counsel, filed a response to the motion. On August 3, 2009, a hearing was held in Hot Spring

County Circuit Court. On January 25, 2010, the Hot Spring County Circuit Court entered an order wherein it stated that it was unable to decide the case until a complete evaluation was done on the minor child and the parties to the action. On April 7, 2010, a second hearing was held. On April 21, 2010, the court entered an order directing the parties to undergo family counseling with visitation to continue. Following the hearing, Chauntyl requested that Mr. Hurst obtain an order to have the record from the proceedings sealed. Mr. Hurst agreed to file the motion.

Chauntyl Stone received a billing statement from Mr. Hurst dated April 29, 2010. The statement showed a balance owing of \$1,051.93. The statement included a Two Hundred Dollar fee for a Petition to Seal Record. Chauntyl Stone paid the bill for \$1,051.93 on May 25, 2010.

Chauntyl's sister, Candace Spencer, went to Mr. Hurst in June, 2010, to discuss representation in a divorce matter. Cynthia Stone was also present. On June 7, 2010, Cynthia Stone wrote a check in the amount of One Thousand Five Hundred Dollars (\$1,500.00) for payment of the legal fees in Candace's divorce proceeding. Mr. Hurst advised that it would take about two weeks to get the matter filed. After a period of time had passed, Ms. Spencer made calls to Mr. Hurst's office about the status of the matter.

On July 23, 2010, Candace Spencer was served with a Complaint for Divorce, a Restraining Order, and a Notice of Consent. Ms. Spencer was also provided with a copy of an Order for Drug Testing which required her to submit to drug testing at a lab in Little Rock by 6:30 p.m. if she were served by 11:00 a.m. or by noon the next day if served after 11:00 a.m. The lawsuit was filed in Saline County Circuit Court and Candace was served on July 23, 2010, at 3:25 p.m.

Ms. Spencer called the Garland County Circuit Clerk and the Hot Spring County Clerk to

see whether a divorce action had been filed on her behalf by Mr. Hurst. No divorce action had been filed in either county. On July 24, 2010, Cynthia Stone sent an email to Mr. Hurst stating that a new attorney would be employed on Monday, July 26, 2010, if he could not show that a Complaint for Divorce had been filed by him prior to the Complaint for Divorce that was served upon Ms. Spencer on July 23. Ms. Spencer went to Mr. Hurst's office to speak to Mr. Hurst but he was not available to meet with her so she left for Little Rock to submit to the drug test. On the way to Little Rock, Mr. Hurst called and asked her to stop by his office on the way back. Ms. Spencer submitted to the test and then returned to Hot Springs. Ms. Spencer stopped at Mr. Hurst's office as he instructed, but Mr. Hurst was not able to meet with her so she scheduled an appointment for the next morning.

On July 27, 2010, Ms. Spencer and Chauntyl Stone met with Mr. Hurst. Ms. Spencer requested a copy of the Complaint for Divorce Mr. Hurst filed on her behalf. Mr. Hurst could not provide a copy of the Complaint for Divorce. Ms. Stone asked for a copy of the Petition to Seal that was to have been prepared on her behalf. Mr. Hurst could not provide a copy of that document. Ms. Spencer and Ms. Stone informed Mr. Hurst that his representation of them had ended and that he was to return the money paid to him for the representation. Mr. Hurst agreed to return the money but stated that it would take a couple of days because he had to file a motion to withdraw in Ms. Spencer's case.

After leaving Mr. Hurst's office, Ms. Spencer went to the law office of Mike King and employed him to represent her in her divorce case. Meanwhile, Mr. Hurst sent by mail a letter to the Saline County Circuit Clerk along with a Motion for Temporary Custody, Support and Suit Money to be filed on behalf of Ms. Spencer. The motion was received by the Saline County

Circuit Clerk on July 30, 2010, and filed at 10:13 a.m.

On July 28, 2010, Cynthia Stone sent an email to Mr. Hurst informing him that his services had been terminated and that he was to refund the fees paid. Later on July 28, 2010, at 3:22 p.m., an Answer and Counterclaim for Divorce was filed by Mr. Hurst with the Saline County Circuit Clerk on behalf of Ms. Spencer. Meanwhile, Mr. King mailed a cover letter and an Answer to Complaint for Divorce to the Saline County Clerk on July 29, 2010, for filing on Ms. Spencer's behalf. The letter and Answer to Complaint for Divorce were received by the Saline County Clerk on July 30, 2010, and filed at 10:29 a.m. On August 2, 2010, Mr. Hurst filed a second Answer and Counterclaim. The second Answer and Counterclaim was filed on August 2, 2010, at 10:38 a.m.

On August 13, 2010, a hearing was held in Saline County Circuit Court. Mr. King represented Ms. Spencer at the hearing. On August 19, 2010, Mr. Hurst sent a letter and a Motion to Withdraw to the Saline County Circuit Clerk. An Order granting the Motion to Withdraw was entered on August 20, 2010.

Chauntyl Stone received a second billing statement date from Mr. Hurst dated July 28, 2010. The billing statement showed a balance owed in the amount of Seven Hundred and Twenty-Five Dollars (\$725.00). Ms. Spencer received a billing statement from Mr. Hurst dated August 23, 2010. Ms. Spencer's billing statement included fees for preparation of a Complaint for Divorce on June 23; a fee for preparation of Motion for Temporary Custody, Support and Suit Money; an Answer and Counterclaim; and a letter to the clerk for filing dated July 27, 2010; and a fee for a letter to the clerk for filing dated July 28, 2010. On July 30, 2010, Cynthia Stone

sent a letter to Mr. Hurst by certified mail, return receipt requested. In the letter, Ms. Stone stated that a full refund in the amount of One Thousand Five Hundred Dollars (\$1500.00) was expected as well as any papers or documentation that was given to him. Ms. Stone was able to provide a Track & Confirm Report from the United States Postal Service that showed the letter she sent was delivered on August 2, 2010.

Mr. Hurst admitted that he represented Chauntyl Stone and Candace Spencer. As for the Petition to Seal, Mr. Hurst asserted that the Petition to Seal concerned a prior criminal arrest and that a Petition to Seal was filed in Hot Spring County Circuit Court in that matter. Mr. Hurst stated that he billed Chauntyl Stone for the preparation of the Petition to Seal and that the fee was for Two Hundred Dollars (\$200.00). Concerning Ms. Spencer, Mr. Hurst stated that Ms. Spencer did come to his office to discuss a divorce action but that he did not remember expressing any sort of specific time-frame to file the matter. Mr. Hurst stated that he was unaware of any calls to his office inquiring about the status of a legal matter but that would be typical. Mr. Hurst denied his actions violated the Arkansas Rules of Professional Conduct.

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. Joshua Quincy Hurst's conduct violated Rule 1.3 when he was employed on June 7, 2010, to file a Complaint for Divorce for Candace Spencer within two weeks but was not filed before Ms. Spencer was served with a Complaint for Divorce by her husband on July 23, 2010. Rule 1.3 requires that a lawyer act with reasonable diligence and promptness in representing a

client.

2. Joshua Quincy Hurst's conduct violated Rule 1.16(d) when he was notified on July 27, 2010 that his representation of Candace Spencer in her legal matter was terminated yet he (1) caused a Motion for Temporary Custody, Support and Suit Money to be filed on July 30, 2010, with the Saline County Circuit Clerk after he received the notice of termination; (2) filed with the Saline County Clerk on July 28, 2010, an Answer and Counterclaim for Divorce after he received notice of termination of representation; (3) caused a second Answer and Counterclaim for Divorce to be filed with the Saline County Circuit Court Clerk on August 2, 2010; (4) failed to file a Motion to Withdraw from Candace Spencer's divorce case until August 19, 2010; (5) failed to return any unearned advanced fees paid by Ms. Spencer; and, (6) failed to return any unearned advanced fees paid by Chauntyl Stone. Rule 1.16(d) states that upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interest, 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. The lawyer may retain papers relating to the client to the extent permitted by other law.

WHEREFORE, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct, acting through its authorized Panel B, that Joshua Quincy Hurst, Arkansas Bar No. 2004016, be, and hereby is, CAUTIONED and fined the sum of ONE THOUSAND DOLLARS (\$1,000.00); directed to pay restitution to Cynthia Stone in the amount of ONE THOUSAND FIVE HUNDRED DOLLARS (\$1,500.00) and assessed costs in the amount of

FIFTY DOLLARS (\$50.00) for his conduct in this matter. The fine, restitution and costs totaling TWO THOUSAND FIVE HUNDRED AND FIFTY DOLLARS (\$2,550.00) 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: /s/ Henry Hodges, Chairman

Date: August 26, 2013

Original filed with the Arkansas Supreme Court on
September 19, 2013.