

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

IN RE:       **DONALD C. HILL**  
              ARKANSAS BAR ID #2008105  
              CPC Docket No. 2014-025

**FINDINGS AND ORDER**

The formal charges of misconduct upon which this Findings and Order is based arose from information related to Donald C. Hill's representation of his sister Kristin Kuelbs in the matter of *Kristin Kuelbs, Donald Hill, and Edwardena Hill v. Kimberly Hill*, CA 09-1326, and the Opinion issued by the Arkansas Court of Appeals in this matter. Mr. Hill, in addition to being licensed in Arkansas, is also licensed in Nevada, California, and Minnesota.

1. In 2007, Donald Hill moved his mentally ill sister Kristin Kuelbs to Garland County, Arkansas. His other sister, Kimberly Hill, then filed a Petition to be appointed as guardian in the Garland County Circuit Court Probate Division.

2. Mr. Hill initially hired Attorney Justin Hurst to represent himself and his wife Edwardena Hill. At some point, he also hired Mr. Hurst to represent his sister Kristin. Mr. Hill filed a cross-petition. During the pendency of the case, Kristin was appointed several guardians, including at one point Mr. Hill. After being appointed guardian, Mr. Hill took on legal representation of Kristin as well. On March 19, 2009, the Court appointed Kimberly as Kristin's guardian after Mr. Hill failed to follow the court's order to have Kristin evaluated.

3. This appeal is one of five appellate opinions issued on appeals filed by Mr. Hill in the probate matter. The first appeal was from the probate court's guardianship ruling and other intermediate rulings. The probate court continued to issue orders in the case while the first appeal was pending. The second appeal, filed while the first appeal was still pending, challenged the probate court's appointment of Kimberly as guardian and the probate court's jurisdiction to enter

decrees after the first notice of appeal was filed. Both the first and second appeals were submitted simultaneously, and both affirmed the probate court's rulings.

4. Mr. Hill filed a third appeal again challenging Kimberly's appointment as guardian and the probate court's jurisdiction to enter three specific orders after the first appeal was filed. The third appeal was dismissed as to the issue of Kimberly's appointment as guardian. This opinion arises from an issue raised in the third appeal, specifically the probate court's orders entered on March 26, 2009, April 2, 2009, and April 24, 2009. Mr. Hill's argument was that the orders were entered erroneously and without hearing or notice.

5. In this current appeal, the Court of Appeals ruled that it had no jurisdiction to hear an appeal of the April 24, 2009, order as the appeal was not timely filed. The two remaining orders were timely appealed, however the court ruled that the arguments made by Mr. Hill were raised for the first time on appeal and the court does not address arguments raised for the first time on appeal. The probate court's March 26, 2009, and April 2, 2009, orders were affirmed.

6. All appeals in the probate case were filed by Mr. Hill and/or Justin Hurst on behalf of Mr. Hill, his wife, and Kristin. In the October 26, 2011, opinion, the Court of Appeals took the opportunity to address Mr. Hill's representation of Kristin. In orders entered December 23, 2008, and January 5, 2009, the probate court disqualified Mr. Hill from acting as Kristin's attorney because of a conflict of interest.

7. Despite having been disqualified as Kristin's attorney, Mr. Hill persisted in filing pleadings and appeals on Kristin's behalf. The Court of Appeals found that the notices of appeal in the case were filed in April and September 2009, long after the disqualification orders were entered. There is no record of orders entered in the probate court reinstating Mr. Hill as Kristin's attorney, nor is there any authority by Kristin's guardian, Kimberly Hill for Donald Hill to thereafter file appeals on Kristin's behalf.

Upon consideration of the formal complaint and attached exhibit materials, the response, and other matters before it, and the Arkansas Rules of Professional Conduct, Panel A of the Arkansas Supreme Court Committee on Professional Conduct finds:

A. That Donald C. Hill's conduct violated Rule 1.7(a)(2) when as a party to the probate proceedings, appointed as Kristin's guardian at one point in the case, Mr. Hill was disqualified as her attorney in the case by orders entered December 23, 2008, and January 5, 2009. Mr. Hill persisted in filing appeals on Kristin's behalf despite being disqualified as her attorney. Arkansas Rule 1.7(a)(2) states that except as provided in paragraph (b), a lawyer shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if there is significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client or a third person or by a personal interest of the lawyer.

B. That Donald C. Hill's conduct violated Rule 1.14(b) when (a) Mr. Hill persisted in his representation of his mentally incapacitated sister Kristin, as his client, by filing appeals on her behalf, even after being disqualified as Kristin's attorney by court order, and (b) he failed to consult with or obtain authority from Kristin's legally appointed guardian, Kimberly Hill, to file the appeals in the case. Arkansas Rule 1.14(b) states in part, when a lawyer reasonably believes that the client has diminished capacity, is at risk of substantial physical, financial or other harm unless action is taken and cannot adequately act in the client's own interest, the lawyer may take reasonably necessary protective action, including consulting with individuals or entities that have the ability to take actions to protect the client....

C. That Donald C. Hill's conduct violated Rule 1.16(a)(1) when (a) Mr. Hill persisted in his representation of Kristin, as his client, by filing appeals on her behalf, even after being disqualified as Kristin's attorney by court orders entered December 23, 2008, and January 5,

2009, and (b) he persisted in filing appeals on Kristin's behalf in violation of the probate court orders of December 23, 2008 and January 5, 2009, that disqualified him as her attorney. Arkansas Rule 1.16(a)(1) states that except as stated in paragraph (c), a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if the representation will result in violation of the Rules of Professional Conduct or other law.

D. That Donald C. Hill's conduct violated Rule 1.16(a)(3) when (a) Mr. Hill persisted in his representation of Kristin, as his client, by filing appeals on her behalf, even after being disqualified as Kristin's attorney by court orders entered December 23, 2008, and January 5, 2009, and (b) he persisted in filing appeals on Kristin's behalf in violation of the probate court orders of December 23, 2008 and January 5, 2009, that disqualified him as her attorney. Arkansas Rule 1.16(a)(3) states that except as stated in paragraph (c), a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if the lawyer is discharged.

E. That Donald C. Hill's conduct violated Rule 8.4(c) when he persisted in filing appeals on Kristin's behalf in violation of the probate court orders of December 23, 2008 and January 5, 2009, that disqualified him as her attorney, thus misrepresenting his relationship with Kristin. Arkansas Rule 8.4(c) states that it is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

F. That Donald C. Hill's conduct violated rule 8.4(d) when despite his disqualification as Kristin's attorney, Mr. Hill continued to file appeals on Kristin's behalf in clear violation of the probate court's December 23, 2008, and January 5, 2009, orders that disqualified him. Arkansas Rule 8.4(d) states that it is professional misconduct for a lawyer to 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 A, that Donald C. Hill, Arkansas Bar ID#2008105, be and hereby is, **CAUTIONED** for his conduct in this matter. Pursuant to Section 18.A of the Procedures of the Arkansas Supreme Court Regulating Professional Conduct of Attorneys at Law (2011). Mr. Hill is assessed the costs of this proceeding in the amount of FIFTY DOLLARS (\$50.00). The costs of \$50.00 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 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 A

By:/s/ Danyelle J. Walker, Chair, Panel A

Date: October 2, 2014

Original filed with the Arkansas Supreme Court on  
October 29, 2014.