

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

**IN RE: JAMES WARREN STANLEY
ARKANSAS BAR ID No. 75124
CPC Docket No. 2015-021**

FINDINGS AND ORDER

James Warren Stanley is an attorney from Little Rock, Arkansas, licensed in 1975 to practice law in the State of Arkansas, and assigned Arkansas Bar Number 75124. The basis for the formal complaint arose from the representation of James Lamb in a veteran's administration matter.

In 2009, James Lamb applied for service connected benefits from the Department of Veterans Affairs ("VA"). In his *pro se* application for benefits, Mr. Lamb claimed he was entitled to benefits from the VA for posttraumatic stress disorder and bilateral hearing loss which were related to his service in the armed forces from 1964 through 1966. In May 2010, the VA Regional Office in Little Rock denied Mr. Lamb's claim for service connected benefits. Mr. Lamb appealed. On June 15, 2011, Mr. Lamb met with Mr. Stanley and discussed the VA matter. Mr. Stanley charged One Hundred Fifty Dollars (\$150.00) for the consultation. Mr. Stanley provided Mr. Lamb with a form to appeal the decision of the VA Regional Office. In May 2012, the VA Regional Office changed its decision as to the PTSD and assigned a 30 percent disability rating effective from October 9, 2009, for hearing loss in his left ear. Mr. Lamb thereafter received past due benefits for the PTSD and the hearing loss in his left ear.

In June 2012, Mr. Stanley wrote Mr. Lamb asking him to sign a notice of disagreement form for an appeal of the denial of the benefits for hearing loss in his right ear. Mr. Stanley also stated in his letter that his fee was 20% of the past due benefits. On June 18, 2012, Mr. Lamb

wrote Mr. Stanley a check for \$2,704.65, which represented 20% of the past due benefits for the PTSD claim. A hearing was scheduled for August 17, 2012, on the issue of entitlement to service connection for the bilateral hearing loss. Mr. Stanley did not appear at the hearing as he had told Mr. Lamb that he would be out of town on that day. Mr. Lamb did appear at the hearing and, immediately prior to the hearing, was advised by a representative of the VA that Mr. Stanley was not approved by the VA to represent veterans. Mr. Lamb represented himself at the hearing.

On September 27, 2012, Mr. Lamb wrote Mr. Stanley a letter terminating Mr. Stanley's representation of him. The letter was faxed to Mr. Stanley's office.

In July 2014, Mr. Stanley wrote Mr. Lamb and stated that the hearing loss case had come up on his diary and that he needed to discuss the case. Mr. Stanley inquired whether Mr. Lamb had received any retroactive benefits by way of a fully or partially favorable ruling and, if so, that Mr. Lamb needed to pay Mr. Stanley his 20% fee. Mr. Lamb wrote Mr. Stanley a letter dated July 23, 2014, informing Mr. Stanley that as he was not permitted to represent veterans in VA matters that he should return the \$2,704.65 that had been paid to him in 2012. Mr. Stanley responded to Mr. Lamb in a letter dated August 12, 2014, and stated that non-attorneys can handle VA matters and that any licensed attorney in good standing can represent anyone before a federal agency. Mr. Stanley admitted in his letter that he was suspended by the VA but had applied for accreditation and that he may represent a veteran at the VA just as any other attorney, accredited or not.

On September 26, 2014, the Board of Veterans Appeals issued its decision from the August 17, 2012, hearing. The Board granted the service connection for the left ear hearing loss

and remanded the matter to the Little Rock Regional Office for a determination on whether the right ear hearing loss was service connected. The determination on whether the right ear hearing loss was service connected had not been made as of the date the Complaint was filed.

In June 2000, the Office of Regional Counsel notified Mr. Stanley that it intended to terminate his accreditation before the Department of Veterans Affairs following an investigation that found Mr. Stanley had violated or refused to comply with the laws administered by VA or with the regulations governing practice before VA, and that he had demanded or accepted unlawful compensation for preparing, presenting, prosecuting, or advising or consulting concerning a claim. Mr. Stanley requested a hearing and following the hearing on September 27, 2000, the hearing officer recommended termination of Mr. Stanley's accreditation. Mr. Stanley was notified on October 10, 2001, by the Office of the General Counsel of the Department of Veterans Affairs that, effective immediately, his accreditation to represent claimants for benefits before the Department of Veterans Affairs was canceled. Mr. Stanley filed a Notice of Disagreement and appealed to the Board of Veterans Appeals.

On October 22, 2009, the Board of Veterans Appeals issued a decision finding that there were no errors of law or fact in the cancellation of Mr. Stanley's accreditation to represent veterans before the VA. Mr. Stanley filed an appeal to the United States Court of Appeals for Veterans Claims. On February 29, 2012, the United States Court of Appeals for Veterans Claims issued a Memorandum Decision and affirmed that there was clear and convincing evidence that Mr. Stanley accepted unlawful compensations; vacated the decision and remanded the matter to determine whether suspension or cancellation was the appropriate remedy for Mr. Stanley's conduct. Mr. Stanley appealed the decision of the Court of Appeals for Veterans Claims to the

United States Court of Appeals for the Federal Circuit. On April 9, 2013, the United States Court of Appeals for the Federal Circuit dismissed Mr. Stanley's appeal as the Veterans Claims decision was not final for review. The matter was remanded back to the Board of Veterans Appeals.

In July 2013, the Board of Veterans Appeals was notified in writing by Mr. Stanley that he did not want a supplemental hearing but that he would provide additional evidence to the Board within 60 days of his letter. Mr. Stanley did not provide any additional information to the Board and the Board proceeded to address the matter on remand. On January 16, 2014, the Board of Veterans Affairs issued a decision that Mr. Stanley had shown a disregard for VA regulations and ignored VA authority and regulation after his accreditation was terminated. The Board ordered that termination, rather than suspension, of Mr. Stanley's accreditation was the most appropriate sanction for his conduct.

The Office of Professional Conduct contacted the United States Department of Veteran Affairs to answer whether (1) Mr. Stanley was still under some suspension at the VA and (2) Mr. Stanley can represent VA claimants and take fees from 2011 forward, either as an attorney or as a non-attorney representative. The VA replied to the inquiry by letter dated September 12, 2014, and in its letter stated that Mr. Stanley's accreditation to represent claimants before the Department of Veterans Affairs was canceled on October 10, 2001. Further the VA stated that Mr. Stanley has not been authorized to represent claimants for VA benefits before the VA since October 9, 2001. The VA stated that Mr. Stanley had submitted an application for accreditation as a claims agent but that application was under review. The VA stated that as Mr. Stanley was not accredited by VA and had not been since October 9, 2001, he was not and had not been

eligible to charge fees for representational services before VA.

For his response, Mr. Stanley stated that he provided many legal services for Mr. Lamb, by providing forms and assisting in filing the appeal in the unfavorable initial VA determination. Mr. Stanley stated that he consulted with Mr. Lamb on the telephone and during visits to his office where he explained what was necessary to prove his case. Mr. Stanley stated that it was immaterial that he was not currently accredited by the VA as it was not required. Mr. Stanley stated that any attorney admitted to practice before the highest court in the state is allowed to handle any matter before any federal agency.

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

1. James Warren Stanley violated Rule 3.4(c) when he engaged in the preparation, presentation, prosecution, or advising or consultation concerning the claim of James Lamb before the Veterans Affairs after his accreditation to represent claimants before the Veterans Affairs was canceled on October 10, 2001, and had not been reinstated. Rule 3.4(c) states that a lawyer shall not knowingly disobey an obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists.

WHEREFORE, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct, acting through its authorized Panel B, that JAMES WARREN STANLEY, Arkansas Bar No. 75124, be, and hereby is, REPRIMANDED for his conduct in this matter.

It is so ordered.

ARKANSAS SUPREME COURT COMMITTEE
ON PROFESSIONAL CONDUCT - PANEL B

By:/s/ Niki T. Cung, Chairperson

Date: June 23, 2015

Original filed with the Arkansas Supreme Court
Clerk on August 3, 2015.