

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

**IN RE: DON TRIMBLE
ARKANSAS BAR ID No. 91078
CPC Docket No. 2015-022**

FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from information filed by David and Michelle Moore in a lawsuit related to the construction of a home. The lawsuit was *Moore v. Wilcox*, Pulaski County Circuit Court Case No. 60CV-06-13236.

In 2006, David and Michelle Moore employed Don Trimble, an attorney primarily practicing law in Little Rock, to represent them in a matter arising out of the construction of their home in Scott, Arkansas. Trimble filed a lawsuit on behalf of the Moores in November 2006 which resulted in a nonsuit on January 3, 2011. On April 5, 2011, Trimble re-filed the lawsuit and caused summonses to be issued for each of the defendants. Rule 4(I) of the Arkansas Rules of Civil Procedure provides that service of a summons and a copy of the complaint are required to be served upon a defendant within 120 days of the filing of the lawsuit. Service was not made and on July 18, 2011, Trimble filed a motion for extension of time to effect service which was granted by the trial court on July 20. Trimble had until December 5, 2011, to serve the defendants with a copy of the lawsuit.

Service was not made on the defendants by November 16, 2011, and Trimble employed a process server who attempted service from November 17, 2011, to December 1, 2011. Service was not obtained by December 5, 2011, and Trimble filed a second motion for extension of time to effect service which was granted by the court and allowed him until March 20, 2012, to obtain

service on the defendants. On March 12, 2012, Trimble filed a third motion for extension of time to effect service which was granted by the court and allowed him until July 20, 2012, to obtain service. On April 17, 2012, the defendants filed a motion to dismiss the lawsuit as they had not been served within 120 days of the filing of the lawsuit or within the additional 120 days granted by the court on the second extension of time to effect service. On June 11, 2013, the trial court held a hearing on the motion to dismiss. Trimble notified the Moores by letter dated June 22, 2012, that due to an error on his part, the court would likely dismiss the lawsuit for failure to serve the defendants in a timely manner. On August 16, 2012, Trimble filed a motion to be relieved as counsel which was granted by the court on August 17, 2012. The Moores employed other counsel to represent them but, after a hearing held on June 11, 2013, the trial court granted the motion to dismiss for failure to perfect service. As a result of Trimble's failure to obtain service on the defendants in the lawsuit, the Moores' were procedurally barred from having their matter litigated.

Trimble filed a timely response to the formal complaint prepared by the Office of Professional Conduct. In his response, he admitted to the facts as set forth above.

Upon consideration of the formal complaint and attached exhibits, the response to the Complaint filed by Mr. Trimble, and the Arkansas Rules of Professional Conduct, the Committee on Professional Conduct finds:

1. Don Trimble's conduct violated Rule 1.3 when he waited until November 16, 2011, to employ a process server to obtain service on the defendants in the Moores' lawsuit and failed to have the defendants served. Rule 1.3 states that a lawyer act with reasonable diligence and promptness in representing a client.

2. Don Trimble violated Rule 8.4(d) when his failure to obtain service on the defendant's in the Moores' lawsuit resulted in the Moores' lawsuit being procedurally barred. 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 B, that DON TRIMBLE, Arkansas Bar No. 91078, be, and hereby is, REPRIMANDED for his conduct in this matter; fined the sum of FIVE HUNDRED DOLLARS (\$500.00); and assessed costs in the amount of FIFTY DOLLARS (\$50.00). All fines and costs 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, 2100 Riverfront Drive, Suite 200, Little Rock, Arkansas, 72202, within thirty (30) days of the date this Findings and Order is filed of record with the Clerk of the Arkansas Supreme Court.

It is so ordered.

ARKANSAS SUPREME COURT COMMITTEE
ON PROFESSIONAL CONDUCT - PANEL B

By: /s/ Niki Cung, Chair, Panel B

Date: August 25, 2015

Original filed with the Arkansas Supreme Court
Clerk on September 30, 2015.