

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

IN RE: **JOHN CHAPMAN STRATFORD**, Respondent
Arkansas Bar ID # 88169
CPC Docket No. 2015-063

CONSENT FINDINGS & ORDER

The formal charges of misconduct upon which this Consent Order is premised, involving respondent attorney John Chapman Stratford of Little Rock, Arkansas, arose from information brought to the attention of the Committee on Professional Conduct in January 2015 by Miguel Williams and his post-conviction relief attorney. Following Respondent Attorney's receipt of the formal complaint, the attorney entered into discussion with the Executive Director which has resulted in an agreement to discipline by consent pursuant to Section 20.B of the Arkansas Supreme Court Procedures Regulating Professional Conduct of Attorneys at Law (2011).

1. Miguel Williams was represented at state court trial by retained attorney Darrell Brown, Jr. in Pulaski County Circuit Case No. 60cv-10-2170. On February 29, 2012, Williams was convicted of several serious felonies, and was sentenced to serve 300 months in prison by an amended judgment of conviction filed March 27, 2012. This filing date triggered the start of several time periods for Williams to seek either a direct appeal or post-conviction relief.

2. Brown was relieved by the trial court a few days later, and timely provided Williams documents necessary to initiate his direct appeal pro se. Emails between Brown and Williams' mother during March 2012 show their communications about Williams' appeal.

3. On or about March 9, 2012, Williams' mother employed and made a partial

payment of \$1,500.00 to Stratford to represent Williams, but the scope of the employment is unclear. At the time Stratford was employed, several weeks still remained for a notice of appeal to be timely filed.

4. As described by the Memorandum and Order entered January 1, 2015, in the federal habeas case, Williams v. Hobbs, No. 13-cv-384, Stratford inexplicably never filed an appeal and time ran out on Williams' direct appeal right. This document goes on to characterize Stratford's conduct in the Williams matter as "shameful," and that Stratford mishandled the case. Judge Volpe called Craig Lambert an "experienced habeas lawyer."

5. Stratford and Lambert have a "history" together in habeas cases predating the Williams case. In the case of Zay Whitaker, he was represented by the Pulaski public defender office at trial, plead guilty, and filed a timely Rule 37 state post-conviction relief petition which was denied. On August 17, 2011, Stratford and Lambert, apparently as retained private counsel, jointly filed a federal habeas proceeding for Whitaker as Case No. 11-cv-212. On October 1, 2013, Magistrate Judge Kearney issued proposed findings and recommended disposition, to dismiss, which were then approved by the District Judge in late October 2013. In the case of Anthony Dicandia, he was represented by the Pulaski-Perry public defender office at trial, was convicted by a jury, and the conviction was affirmed on direct appeal, handled by the public defender, on November 4, 2010, by the Arkansas Supreme Court in No. CR10-346. No state Rule 37 relief was sought. On January 31, 2012, Stratford and Lambert, apparently as retained private counsel, jointly timely filed a federal habeas proceeding for Dicandia as Case No. 12-cv-47. The State challenged the habeas effort as being procedurally defaulted as Dicandia had not raised his ineffective assistance of counsel (IEAC) claims in

any state Rule 37 petition before filing for federal habeas relief. On March 7, 2012, Judge Volpe invited comment on the specific “no Rule 37” issue. At some point, Lambert appears to have taken over the Dicandia representation and Stratford’s name no longer appears on pleadings. On June 28, 2012, a motion for appointment of counsel for Dicandia was filed only in the name of Lambert, stating, in part, (3) the case involves complex procedural and substantive issues that are beyond the ability of this petitioner to investigate and present, (4) in late 2011, the undersigned [Lambert] was paid a small sum of money as a partial payment to represent Dicandia but has been paid nothing since, and (5) Dicandia is indigent and eligible for appointment of counsel. By order entered June 29, 2012, Judge Volpe relieved Stratford “as counsel of record” and appointed Lambert for the limited purpose of filing an amended habeas petition, which Lambert filed on July 20, 2012. In proposed findings and recommendations filed October 29, 2014, Judge Volpe found Dicandia’s failure to raise his IEAC claims in a state Rule 37 was fatal to his federal habeas effort. On November 14, 2012, the District Court agreed and dismissed Dicandia’s habeas case.

6. Lambert prepared a pro se motion for belated appeal which was filed in January 2013. The filing included an affidavit executed by Miguel Williams on January 11, 2013, in which he states he never waived his right to an appeal. On June 6, 2013, the Arkansas Supreme Court denied Williams permission to file a belated direct appeal.

7. In Williams United States District Court Case No. 13-cv-384, on December 20, 2013, Stratford filed a petition for writ of habeas corpus that was ghost-written by attorney Lambert.

8. On April 15, 2014, Lambert entered his appearance in the federal case, and on June

16, 2014, he filed a reply, to the State's response, in an effort to salvage Williams' effort at obtaining relief.

9. Lambert was relieved and John Hall was appointed as counsel for Williams on August 15, 2014.

10. An evidentiary hearing was conducted on November 12, 2014. Ms. Williams' handwritten list of payments to Stratford, totaling \$3,900, was introduced and discussed. The two page letter dated November 18, 2013, that Stratford delivered to Miguel Williams in the ADC was introduced and discussed.

11. At the hearing Sharon Williams testified, in part, that at the initial meeting Stratford led the conversation and Lambert said a little; she paid Stratford \$1,500 on what she recalled was a fee of \$5,000; and that she later employed Lambert to take over the federal habeas case.

12. At the hearing testifying under the "rule sequestering witnesses" and before Lambert testified, Stratford testified, in part, that Ms. Williams paid him \$1,500 at the initial meeting; no direct appeal was undertaken for Miguel Williams because his mother could not afford the estimated \$2,500 cost for the necessary trial transcript; Stratford had never done a direct appeal or a Rule 37 proceeding or a federal habeas proceeding on his own, always referring such matters to other attorneys; Miguel was going to get a Rule 37, to be done by Lambert, and Stratford was going to give Lambert half of whatever Ms. Williams paid Stratford; he did not know why a notice of (direct) appeal was not filed; he did not know why no Rule 37 proceeding was filed; and he had no record of the Williams payment to him.

13. Stratford testified at the November 2014 hearing that his practice is limited to trial-

level representation, he does not handle appeals or post-conviction matters himself, but refers such matters to other counsel.

14. At the hearing Lambert testified after Stratford, in part, that his practice is primarily appellate and post-conviction criminal work; he checked on the estimated cost of the trial transcript needed for a direct appeal or Rule 37 effort and was quoted about \$2,000; he attended one meeting with Ms. Williams and Stratford; he saw Ms. Williams pay Stratford \$1,500 on or about March 19, 2012; at that meeting Lambert went over the time limits involved for a Williams direct appeal, Rule 37, motion for belated appeal, and a federal habeas proceeding; Lambert had no knowledge of any agreement with Stratford for him to give Lambert half of whatever Ms. Williams paid Stratford; his notes made in advance of attending the March 2012 meeting were introduced at the hearing; Lambert ghost-wrote the federal habeas petition for Stratford to file; Lambert ghost-wrote the state motion for belated appeal for Stratford to file; Lambert was confused about the actual scope of the representation of Miguel Williams; he was never in an attorney-client representation with either Williams until much later when Ms. Williams employed him in April 2014 for a \$2,500 fee to take over the pending federal habeas case; that Stratford then paid Lambert \$1,000 from Ms. Williams' funds Stratford held; Stratford was "in way over his head" in the Williams matter; Lambert never saw the November 18, 2013, letter from Stratford to Miguel Williams until the November 2014 hearing, the letter was not accurate, and, if Lambert had seen the letter before Stratford took it to Miguel Williams, Lambert would have told Stratford the letter was not accurate.

15. The Memorandum and Order, and Judgment, were entered January 1, 2015,

denying Williams relief, and making highly unfavorable comments and findings about Stratford's conduct on Williams' behalf. The Judgment also denied Williams a certificate of appealability to the federal court of appeals. Hall filed Williams' notice of appeal.

16. Over the years, as shown by the on-line PACER court service, Stratford has apparently been involved in some capacity as counsel in at least 128 cases in the United States District Court for the Eastern District of Arkansas. One of Stratford's habeas cases prior to Williams, with Lambert as co-counsel from the start, was Whitaker v. Hobbs, No. 11-cv-212. Another of Stratford's habeas cases prior to Williams, with Lambert coming in mid-case to replace Stratford, was Dicandia v. Hobbs, No. 12-cv-47.

Upon consideration of the formal complaint and attached exhibits, admissions made by the respondent attorney, the terms of the written consent, the approval of Panel A of the Committee on Professional Conduct, and the Arkansas Rules of Professional Conduct, the Committee on Professional Conduct finds:

A. The conduct of John C. Stratford violated Rule 1.1 in that Stratford accepted employment and payment for legal services to be provided for Miguel Williams, for an appeal or post-conviction relief or a habeas petition in federal court, services Stratford was not qualified or competent to perform and which he did not perform as part of his regular criminal practice. Arkansas Rule 1.1 requires that a lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

B. The conduct of John C. Stratford violated Rule 1.2(a) in that it was the objective of Stratford's client Miguel Williams that Stratford, or some attorney working with Stratford,

would pursue for Williams an appeal or post-conviction relief or a habeas petition in federal court, and these remedies were not timely or properly pursued. Arkansas Rule 1.2 (a) requires that a lawyer shall abide by a client's decisions concerning the objectives of representation, subject to paragraphs (c) and (d), and, as required by Rule 1.4, shall consult with the client as to the means by which they are to be pursued. A lawyer may take such action on behalf of the client as is impliedly authorized to carry out the representation...

C. The conduct of John C. Stratford violated Rule 1.3 in that when Stratford was initially employed by Williams' mother on or about March 9, 2012, several weeks still remained on the time within which a timely notice of direct appeal from Williams' state court conviction could be filed, yet no such notice of appeal was filed by Stratford or any attorney working with him on the Williams matter; and a federal habeas petition was filed for Williams by Stratford on December 20, 2013, but too late to meet the filing deadline of within one year after the March 27, 2012, entry of the amended sentencing order in Williams' state court case. Arkansas Rule 1.3 requires that a lawyer shall act with reasonable diligence and promptness in representing a client.

D. The conduct of John C. Stratford violated Rule 1.4(a)(2) in that the primary evidence of communication between Stratford and his client Williams about the means by which the client's objectives are to be accomplished is the Stratford letter to Williams signed by Williams on November 8, 2013, at the ADC unit, (Ex. 11), and testimony about the letter at the November 12, 2014, hearing by Stratford (Ex. 9, pages 73-74) and Craig Lambert (Ex. 9, pages 115-120). The testimony of Lambert, the experienced lawyer in these areas of criminal defense law, makes it clear Stratford gave client Williams inadequate, if not incorrect

information or consultation. Arkansas Rule 1.4(a)(2) requires that a lawyer shall reasonably consult with the client about the means by which the client's objectives are to be accomplished.

E. The conduct of John C. Stratford violated Rule 1.5(a) in that based on Stratford's admitted lack of experience, skill, and ability to pursue the forms of relief expected for his new client Miguel Williams, the \$4,000 fee he quoted for the representation and the \$3,900 he allegedly collected in the matter, were unreasonable and excessive under the circumstances where Stratford was planning to engage the services of another attorney to either prepare and file or ghost-write for Stratford to file the documents needed to seek relief for Williams, while Stratford appeared poised to keep half the fee for himself. Arkansas Rule 1.5(a) requires that a lawyer's fee shall be reasonable. A lawyer shall not make an agreement for, charge, or collect an unreasonable fee or an unreasonable amount for expenses. The factors to be considered in determining the reasonableness of a fee include the following: (1) the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly; (2) the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer; (3) the fee customarily charged in the locality for similar legal services; (4) the amount involved and the results obtained; (5) the time limitations imposed by the client or by the circumstances; (6) the nature and length of the professional relationship with the client; (7) the experience, reputation, and ability of the lawyer or lawyers performing the services; and (8) whether the fee is fixed or contingent.

F. The conduct of John C. Stratford violated Rule 8.4(d) in that Stratford's failure to

either recognize and take appropriate and timely action, or to take appropriate and timely action in March 2012 to file a notice of direct appeal for Miguel Williams caused Williams to lose his right to a constitutionally-provided direct appeal of his state criminal conviction, conduct by Stratford that is prejudicial to the administration of justice; and Stratford's failure to either recognize and take appropriate and timely action, or to take appropriate and timely action before March 2013 to file or have filed a federal habeas petition for Miguel Williams caused Williams to lose his right to a federal court review of his state criminal conviction, conduct by Stratford that is prejudicial to the administration of justice. Arkansas Rule 8.4(d) provides that it is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice.

WHEREFORE, in accordance with the consent to discipline presented by Mr. Stratford and the Executive Director, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct that Respondent **JOHN CHAPMAN STRATFORD**, Arkansas Bar No. 88169, be, and hereby is, **CAUTIONED** for his conduct in this matter.

ARKANSAS SUPREME COURT COMMITTEE
ON PROFESSIONAL CONDUCT - PANEL A

By:/s/ Steve Shults, Vice - Chairperson, Panel A

Date: September 18, 2015

Original filed with the Arkansas Supreme Court Clerk
on September 18, 2015.