



BEFORE THE ARKANSAS SUPREME COURT
COMMITTEE ON PROFESSIONAL CONDUCT
PANEL A

IN RE: **JOSH QUINCY HURST**, Respondent
Arkansas Bar ID #2004016
CPC Docket No. 2019-003

REVISED FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee by Kimberly Peters in July 2012. The information related to the representation of Ms. Peters by Respondent Josh Hurst in 2008-2012. In February 2019, Respondent was served with a formal complaint, supported by affidavits from Ms. Peters, Donald Peters and Shawn Hanna. Respondent filed a timely Response.

1. Kimberly Peters ("Ms. Peters") is a resident of the Hot Springs area and was a client of attorney Josh Hurst for several legal matters during 2008-2012.

2. Donald J. Peters ("Mr. Peters") is a resident of the Hot Springs area, the father of Kimberly Peters, and was a client of attorney Josh Hurst for a personal injury legal matter during 2011-2012.

3. Ms. Shawn Hanna ("Ms. Hanna") was at relevant times a resident of the Hot Springs area, and through a power of attorney from her friend Tony Hembey, who had suffered a serious brain injury, represented and acted for Hembey when he was a client of attorney Josh Hurst on a Social Security disability matter in Arkansas in 2008-2012.

4. After her divorce in 2003, Ms. Peters began to suffer from several physical illnesses and conditions, and she became disabled to work by 2004.

5. As described in her Affidavit, Ms. Peters sought to apply for Social Security

disability.

6. Following a referral by her friend Ms. Hanna, in November 2008 Ms. Peters met with Josh Hurst about her disability situation and employed him to pursue her claim with the Social Security Administration (SSA).

7. Hurst's grandfather, father, and brother, all lawyers over the years at the Hurst family law firm, had known and represented members of the Peters family for some years before 2008.

8. In December 2009, Hurst wrote Michelle Crandell ("Ms. Crandell"), a Hot Springs counselor working with Ms. Peters, that he represented Ms. Peters in her Social Security disability matter.

9. The narrative reports from approximately twenty (20) of their counseling sessions from late 2009 through mid-2014 show that Ms. Peters and Ms. Crandell discussed Ms. Peters' disability claim status and the personal conduct of Ms. Peters and Hurst.

10. By letter of June 8, 2010, Crandell provided Hurst with substantial personal detail about Ms. Peters' health conditions and status.

11. Hurst informed Ms. Peters she had a Social Security disability hearing set on the morning of August 2, 2010, in Hot Springs. Hurst met Ms. Peters outside the hearing building just before the hearing time. Hurst told Ms. Peters that his father and law partner, attorney Q. Byrum Hurst, Jr., had a "conflict" with the Social Security judge and it would be best for her if Hurst waived her right to a hearing and presented her case on medical records only. Ms. Peters took Hurst's advice and left.

12. Hurst informed Ms. Hanna that her friend Tony Hembey had a Social Security

hearing also set on the morning of August 2, 2010, in Hot Springs. Hurst met them outside the hearing building just before the hearing time. Hurst told Ms. Hanna that his father and law partner, Q. Byrum Hurst, Jr., had a "conflict" with the Social Security judge and it would be best for her if she waived Mr. Hembey's right to a hearing and Hurst presented his case on medical records only. Ms. Hanna and Mr. Hembey took Hurst's advice and left.

13. Ms. Peters later shared the story about the non-hearing on August 2, 2010, with SSA representative Regina Longinotti of Hot Springs, who checked and informed Ms. Peters there had been no hearing set on that date for her case.

14. After August 2, 2010, Ms. Peters was unable to get specific status reports from Hurst on her disability claim for months, other than him telling her it was "pending."

15. On November 4, 2010, Hurst apparently sent in or caused to be sent in an on-line SSA disability filing for Ms. Peters, claiming her date of disability was May 30, 2004, followed by submission of other SSA documents related to Ms. Peters.

16. Thereafter, Ms. Peters received documents from SSA about her claim, sometimes took the documents to Hurst for explanation or assistance, and tried to pursue her claim.

17. Hurst continued to represent Ms. Peters in other matters after 2008, including sending a stern letter to a local woman who had been harassing Ms. Peters and Ms. Hanna, filing a motion to suspend child visitation, representing Ms. Peters in a court-ordered name change, and preparing a Will for her which she executed on March 9, 2010.

18. The meetings of Ms. Peters and Hurst, a married man, as client and attorney, turned into a personal and sexual relationship by December 14, 2011. Ms. Peters states they had sex at the Hurst law office on December 14, 2011 and April 4, 2012, followed by sex at a

motel in Caddo Valley, outside Arkadelphia, Arkansas, on May 11, 2012.

19. At about 3:16 p.m. on May 15, 2012, a Hurst law office staffer or paralegal filed a Social Security application for Ms. Peters. Ms. Peters learned of this filing when Ms. Regina Longinotti at the Hot Springs SSA office contacted her about the filing.

20. Ms. Peters went to the Hot Springs SSA office on May 16, met with Ms. Longinotti, and watched Longinotti enter a Peters SSA disability application on-line.

21. On May 16, 2012, Ms. Peters sent Josh Hurst texts about the status of the Peters SSA application, but got no response. On May 17, SSA sent Ms. Peters, not Hurst, a letter request for additional documentation regarding her new disability claim.

22. On May 17, 2012, by emails and by notes passed between them on May 18, Hurst invited Ms. Peters to go to Arkadelphia with him again, but that trip did not occur.

23. By email on May 29, 2012, Ms. Peters informed Hurst their personal relationship was over.

24. Ms. Peters' recollections of these sexual encounters with Hurst are referenced in Ms. Crandell's counseling session reports with Ms. Peters.

25. On June 14, 2012, SSA wrote Ms. Peters setting an appointment on July 17, 2012, to meet with a SSA professional for a mental evaluation.

26. From June 20-27, 2012, Ms. Peters and Hurst exchanged texts regarding her negligence claims against him regarding her legal matters.

27. On August 15, 2012, Ms. Peters received notification of her award of SSI benefits of \$465.34 per month commencing June 2012, on the application she filed on May 15, 2012.

28. If Hurst had filed Ms. Peters' SSI application in December 2009, when she first

approached him about doing so, and followed through on it, her benefit onset date would have likely started with the filing of the application forty-two (42) months before it did start in May 2012, when her application was finally filed.

29. Ms. Peters lost forty-two months of SSI benefits at \$465 per month, or about \$19,500, due to the negligence and failure of Josh Hurst to timely act for her.

30. The failure of Hurst to act timely and properly in 2008-2010 on Ms. Peters' SSA disability application cost her the opportunity to establish her disability onset date as being as early as in 2004 and drawing disability monthly benefits from that time forward, as well as the chance to go on Medicare then.

31. An article/ad in Inviting Arkansas in July 2017 for the Hurst Law Group, including Josh Hurst, states the firm proves its "dedication to justice and their clients by exceeding expectations and creating authentic relationships," and cites its Business Philosophy as "to thoroughly know our clients."

Upon consideration of the formal complaint and attached exhibit materials, the response to it, 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. The conduct of Josh Hurst violated Rule 1.2(a) in that it was the stated objective of his client Kimberly Peters that Hurst follow through in late 2009 on her claim for Social Security disability benefits, but Hurst did not submit any application for Ms. Peters for over a year, and after he misled her into believing she had a Social Security hearing in Hot Springs on August 2, 2010, which he advised her to skip and let him handle the matter without the hearing. In May 2012, Ms. Peters was informed by SSA she had no application filed. The

SSA Office then filed one for Ms. Peters. Although Ms. Peters did receive SSI benefits starting in June 2012, due to the inaction of Hurst she lost the opportunity to receive disability benefits and early Medicare eligibility back to possibly 2004 and well as possible dependent disability benefits for her two minor children from 2004 until they turned age eighteen.

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...

B. The conduct of Josh Hurst violated Rule 1.3 in that Hurst failed to act with reasonable diligence and promptness in representing Kimberly Peters and filing her Social Security disability claim in late 2008-2009, thereby depriving her of the opportunity to have her claim for benefits considered and likely granted with benefits awarded possibly back to 2004. Arkansas Rule 1.3 requires that a lawyer shall act with reasonable diligence and promptness in representing a client.

C. The conduct of Josh Hurst violated Rule 1.8(j) in that after (1) establishing an attorney-client relationship with Kimberly Peters in late 2008-2009, which continued to June 12, 2012, Hurst had sexual relations/intercourse with Ms. Peters in Hot Springs on or about December 14, 2011; (2) after establishing an attorney-client relationship with Ms. Peters in late 2008-2009, which continued to June 12, 2012, Hurst had sexual relations/intercourse with Ms. Peters in Hot Springs on or about April 4, 2012; and (3) after establishing an attorney-client relationship with Ms. Peters in late 2008-2009, which continued to June 12, 2012, Hurst

had sexual relations/intercourse with Ms. Peters in Caddo Valley, Arkansas on or about May 11, 2012. Arkansas Rule 1.8(j) requires that a lawyer shall not have sexual relations with a client unless a consensual sexual relationship existed between them when the client-lawyer relationship commenced.

D. The conduct of Josh Hurst violated Rule 2.1 in that in representing Kimberly Peters in her various legal matters, Hurst failed to exercise independent professional judgment and render candid advice to Peters due to his personal interest in her and the sexual relationship that developed between them by late 2011. Arkansas Rule 2.1 requires that, in representing a client, a lawyer shall exercise independent professional judgment and render candid advice. In rendering advice, a lawyer may refer not only to law but to other considerations such as moral, economic, social and political factors, that may be relevant to the client's situation.

E. The conduct of Josh Hurst violated Rule 8.4(c) in that: (1) on or about August 2, 2010, Hurst met Kimberly Peters in Hot Springs for what he had informed her was to be a hearing at 10:30 a.m. on her Social Security disability claim he had filed and was pursuing for her. Hurst there informed Peters that due to alleged circumstances existing between Hurst's attorney father and the Social Security judge who was to hear Peters' case, she would be better served if she waived her right to the hearing and let Hurst handle the claim solely on her medical records. Ms. Peters agreed and left. This incident is corroborated by the affidavit of Ms. Peters' friend Shawn Hanna, who stated she appeared with Hurst at the same time and place for another SSA hearing, for her friend Tony Hembey, received the same information from Hurst, and left. SSA later informed Ms. Peters its records showed no hearing in her case was set for that date and place. Hurst here engaged in conduct involving dishonesty, deceit or

misrepresentation. (2) From December 29, 2009, when Hurst wrote Community Counseling Services in Hot Springs stating he was Ms. Peters attorney in a Social Security disability claim and sought her records, until May 2012 when a Peters disability application showed up in the SSA system, Hurst led Ms. Peters to believe he was actively pursuing her SSA disability claim, when he may have failed to file the appropriate SSA application and clearly did not pursue the matter. This was conduct by Hurst involving dishonesty, deceit or misrepresentation. Arkansas Rule 8.4(c) provides that it is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

WHEREFORE, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct, acting through its authorized Panel A, that **JOSH QUINCY HURST**, Arkansas Bar Number 2004016, be, and he hereby is, **REPRIMANDED** for his conduct in this matter, ordered to pay **\$5,000.00 restitution for the benefit of Kimberly Peters**, and ordered to pay \$50.00 case costs. In assessing these sanctions, the Respondent attorney's prior disciplinary record was a factor. The restitution and costs totaling \$5,050.00 ordered and 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: Mark L. Martin
Mark L. Martin, Chair, Panel A

Date: 3.19.21