



BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT
PANEL B

IN RE: **MARCUS CHRISTIAN DEVINE**
 ARKANSAS BAR ID #98097
 CPC Docket No. 2022-002

FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from a grievance filed by Ms. Susan Miller. Mr. Devine is an Arkansas licensed attorney practicing primarily in Little Rock, AR.

1. Ms. Miller is an employee of the Arkansas Department of Labor and Licensing (ADLL) and is also a notary public first commissioned in 1992.
2. Ms. Denise Oxley is the General Counsel for the ADLL.
3. Mr. Devine was employed with the ADLL as an agency attorney and Ms. Miller's supervisor in the legal department during the time the conduct occurred. He left the agency in approximately September 2021.
4. After Mr. Devine's departure, files of former clients of Mr. Devine's private practice were found on his agency's scanner in his assigned scan folder. Except for ADLL's IT department, only Mr. Devine could access his personal scan folder.
5. Ms. Oxley received copies of the documents and then gave the documents to her assistant to be filed away in the corresponding agency files. As the documents that are the subject of this complaint had no corresponding ADLL file, those files were given back to Ms. Oxley. It was at this time that Ms. Oxley noticed Miller's signature on the documents which raised concerns for her as the signature did not look to Ms. Oxley to be Ms. Miller's signature. Ms. Oxley has known Ms. Miller for several years and has seen Ms. Miller's signature over the years.

6. Ms. Oxley presented the documents to Ms. Miller to determine if she had signed and notarized the documents. Upon receipt of the documents, Ms. Miller became aware that Mr. Devine had used her Notary Commission stamp and forged her signature on the documents without her knowledge or permission.

7. The documents were ones in which Mr. Devine acted as attorney for clients unrelated to his work at the Arkansas Department of Labor and Licensing. Some of the documents to which Mr. Devine signed Ms. Miller's name and attached her notary commission stamp were filed in circuit court in pending cases.

8. Ms. Miller contacted the Arkansas Secretary of State by letter to advise that her Notary Commission Stamp had been used without her knowledge or permission and that she was requesting a new number be issued for her.

9. Ms. Miller was advised by the Secretary of State's Office that she would be contacted regarding a new number and advised that if she believed a violation of the Arkansas Rules of Professional Conduct had occurred, she should report that conduct to the Office of Professional Conduct, which she did.

10. Mr. Devine signed Ms. Miller's name to documents and attached her notary stamp without her knowledge or permission inducing others to believe she had notarized the documents. Under Arkansas Code Annotated §5-37-201(a)(1), person commits the criminal act of forgery when "*a person forges a written instrument if, with purpose to defraud, the person makes, completes, alters, counterfeits, possesses, or utters any written instrument that purports to be or is calculated to become or to represent if completed the act of a person who did not authorize that act.*" Mr. Devine signed Ms. Miller's name to documents and attached her notary stamp to purport that Ms. Miller had notarized the documents.

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

1. That Devine's conduct violated Rule 8.4(a) when he, knowingly and without permission, signed Miller's name to documents and filed pleadings, and used Miller's Notary Commission stamp to fraudulently induce third parties and the courts to believe that the documents had been signed by and notarized by Miller. Arkansas Rule 8.4(a) states it is professional misconduct for a lawyer to violate or attempt to violate the rules of professional conduct, knowingly assist or induce another to do so, or to do so through the acts of another.

2. That Devine's conduct violated Rule 8.4(b) when he, knowingly and without permission, in violation of Arkansas criminal statute §5-37-201(a)(1), forged Miller's signature on documents and filed pleadings purporting to show that she, as a notary public, had witnessed his clients' and others' signatures on those documents pursuant to Arkansas law. Devine, then knowingly and without permission used Miller's Notary Commission stamp to notarize the false signature and induce third parties and the court to believe the documents had been signed and notarized by Miller. Arkansas Rule 8.4(b) states it is professional misconduct for a lawyer to commit a criminal act that that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects.

3. That Devine's conduct violated Rule 8.4(c) when he knowingly forged Miller's signature and used her Notary Commission stamp without her permission to notarize documents for his clients. Devine then knowingly caused those documents to be disseminated to third parties and filed in the circuit courts of the State of Arkansas. Arkansas Rule 8.4(c) states it is

professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

4. That Devine's conduct violated Rule 8.4(d) when he knowingly caused the documents in which he forged Miller's signature and used her Notary Commission stamp without authorization to be filed in the circuit courts of the State of Arkansas, inducing the court to believe the documents had been notarized according to state law. Arkansas Rule 8.4(d) states 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 **MARCUS CHRISTIAN DEVINE**, Arkansas Bar ID #98097, be, and hereby is, **Reprimanded** for his conduct in this matter. Devine shall pay a fine in the amount of ONE THOUSAND DOLLARS (\$1,000.00) in accordance with Section 18.B of the Procedures and costs in the amount of FIFTY DOLLARS (\$50.00) in accordance with Section 18.A of the Procedures. The fine and cost assessed herein totaling ONE THOUSAND FIFTY DOLLARS (\$1,050.00) 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 B



David P. Glover, Chair, Panel B

Date: 4/19/22