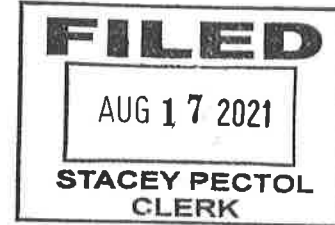


**BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT
PANEL A**

**IN RE: ROBERT MILES BERRY, JR
 ARKANSAS BAR ID #96224
 CPC Docket No. 2021-010**



FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order arose as a result of a grievance filed by Beth Davis. Mr. Berry is an Arkansas licensed attorney practicing primarily in Little Rock, AR.

1. After first deciding to represent themselves pro se in a grandparent visitation issue, Davis then contacted an Arkansas company called Law to Go, which according to its website, uses licensed attorneys to draft legal documents for customers for a flat fee.

2. On November 2, 2017, Davis filed her pro se Petition for Grandparent Visitation in the Circuit Court of Garland County, Arkansas, case number 26DR-17-872.

3. The first hearing on the petition occurred on January 29, 2018. At that hearing Davis was advised by the Judge that it would be best for her to obtain counsel.

4. Davis again contacted Law to Go and was put in contact with Berry.

5. On February 22, 2018, Davis paid Berry \$750.00 for him to represent her in the grandparent visitation case.

6. After paying Berry for his services, Davis had little to no contact with Berry. Davis sent Berry several text messages for status updates on the case between October 1, 2018, and April 19, 2019, with the last text on April 16 where she requested a refund of the fee paid to him.

7. Berry did not enter an appearance in the case on behalf of Davis. Berry did request a hearing date from the court. On the set date, Davis appeared, and Berry did not.

8. On June 25, 2018, the court dismissed Davis' case without prejudice for failure to obtain service pursuant to Arkansas Rules of Civil Procedure 4(i).

9. Davis filed a small claims action against Berry in Little Rock District Court case no LRSC-20-14 on February 11, 2020, to recoup the \$750.00 payment made to Berry.

10. Davis unsuccessfully attempted to serve Berry by certified restricted delivery.

11. The small claims case was dismissed on June 25, 2020, for failure to obtain service on Berry.

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

1. That Berry's conduct violated Rule 1.1 when he failed to take any action or file the appropriate pleadings on behalf of Davis. Arkansas Rule 1.1 states a lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

2. That Berry's conduct violated Rule 1.3 when he failed to take any action and/or file the appropriate pleadings on behalf of his client in the years since he was hired in 2018. Arkansas Rule 1.3 states that a lawyer shall act with reasonable diligence and promptness in representing a client.

3. That Berry's conduct violated Rule 1.4(a)(3) when he failed to communicate with Davis, regarding the status of her legal matter. Arkansas Rule 1.4(a)(3) states that a lawyer shall keep the client reasonably informed about the status of the matter.

4. That Berry's conduct violated Rule 1.16(d) when he received a fee of \$750.00 from Davis to represent them in this matter. Berry failed to refund any of the \$750.00 fee paid to him after he failed to take any action in the matter on behalf of his client. Arkansas Rule 1.16(d) states upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of

other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee or expense that has not been earned or incurred.

6. That Berry's conduct violated Rule 8.4(c) when he took a fee of \$750.00 from Davis, in 2018, and failed to take any action and/or file any pleadings on her behalf.

Arkansas Rule 8.4(c) states 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 **ROBERT M. BERRY**, Arkansas Bar ID #96224, be, and hereby is, **Reprimanded** for his conduct in this matter. In assessing a sanction, Berry's prior disciplinary record was a factor. Berry shall pay restitution in the amount of EIGHT HUNDRED FIFTY DOLLARS (\$850.00) in accordance with Section 18.C of the Procedures. Berry shall also pay a fine in the amount of ONE THOUSAND FIVE HUNDRED DOLLARS (\$1,500.00) 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. In addition, §9.C(1) of the Procedures provide that the failure to provide a written response to a formal complaint may result in the separate imposition of a sanction less than a suspension of license. The Panel imposes a separate sanction of **Reprimand** for Berry's failure to respond to the formal complaint and assesses a fine of TWO THOUSAND FIVE HUNDRED DOLLARS (\$2,500.00). The fines, restitution, and cost assessed herein totaling FOUR THOUSAND NINE HUNDRED DOLLARS (\$4,900.00) 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 A

Mark L. Martin

Mark L. Martin, Chair, Panel A

Date: 7.21.21