

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

FILED

APR 24 2012

**LESLIE W. STEEN
CLERK**

IN RE: **JIMMIE LEE WILSON**
Arkansas Bar ID #73128
CPC Docket No. 2011-048

FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based were developed from information provided to the Committee by Byron Freeland, Esq. on August 4, 2010. The information related to the representation of Calvin Miller in 2005-2010 in state court by Respondent Jimmie Lee Wilson, an attorney practicing primarily in West Helena, Phillips County, Arkansas. After Respondent three times declined to accept or respond to mail service, on October 14, 2011, the Phillips County Sheriff's Office served Respondent Wilson personally with the formal Complaint, supported by affidavits from Byron Freeland, Esq. and Denise Parks of the Arkansas Supreme Court Clerk's Office. Respondent Wilson failed to file a response to the Complaint, which failure to timely respond, pursuant to Section 9.C(4) of the Procedures, constitutes an admission of the factual allegations of the formal complaint and extinguishes Respondent's right to a public hearing.

Jimmie Lee Wilson is an experienced trial lawyer, in both state and federal courts. In September 2005, Mr. Wilson filed a breach of employment contract suit in circuit court in Helena for Calvin Miller against the Helena Housing Authority, Lionell Moss, its Executive Director, and others. Wilson never served any of the defendants with the suit, and on April 8,

2009, an order dismissing the suit without prejudice was filed. On April 28, 2010, Wilson filed the identical suit against the same defendants. Helena Housing filed a motion for summary judgment based on the bar of the five year statute of limitations. Wilson neither filed a response to the motion nor appeared at a hearing on it in June 2010. The motion was granted and the 2010 suit was dismissed with prejudice by an Order filed July 16, 2010. Helena Housing Authority asserted it was forced to expend \$2,175.69 in legal fees and costs defending what was clearly time-barred and unsupportable second lawsuit filed in 2010.

Mr. Wilson's 2011 Arkansas law license renewal fee was due and payable by March 1, 2011. He paid his 2011 fee on May 20, 2011, and his law license was then restored to good standing. As a result of his failure to timely pay the required fee, Mr. Wilson practiced on a suspended law license from March 2 - May 20, 2011. As only one example of Mr. Wilson practicing law while his law license was suspended in 2011, see Lovelace v. American National Property & Casualty Company, Phillips Circuit No. CV-2011-79, Complaint filed March 4, 2011, and removed to United States District Court where Mr. Wilson continued to file pleadings through May 3, 2011.

Mr. Wilson was also "late" in paying his annual law license fee in 2006, 2007, 2008, and 2010, resulting in the license suspensions set out in the Affidavit of Denise Parks. Additional examples of his practicing law at times when his law license was suspended during those years were shown in exhibits attached to the Complaint.

Upon consideration of the formal Complaint and attached exhibit materials, the lack of any filed response to it, and other matters before it, and the Arkansas Rules of Professional Conduct, Panel B of the Arkansas Supreme Court Committee on Professional Conduct finds:

A. The conduct of Jimmie Lee Wilson violated Rule 1.1 in that (1) Mr. Wilson failed to serve the defendants in the 2005 Calvin Miller lawsuit, causing the suit to be dismissed without prejudice in April 2009 for such failure of service, and (2) after the 2005 Calvin Miller lawsuit was dismissed without prejudice on April 8, 2009, and he had one year from that date to refile the suit, Mr. Wilson failed to timely refile the Miller suit, not filing it until April 28, 2010, after the running of both the one year “savings statute” period and the actual five year statute of limitation, causing the suit to be dismissed with prejudice in July 2010 for such failure, conduct in both instances by Mr. Wilson demonstrating the lack of the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation. 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 Jimmie Lee Wilson violated Rule 1.3 in that (1) Mr. Wilson failed to act with reasonable diligence and promptness in representing a client, Calvin Miller, when Wilson failed to serve the defendants in Miller’s 2005 lawsuit, causing the suit to be dismissed without prejudice; (2) Mr. Wilson failed to act with reasonable diligence and promptness in representing a client, Calvin Miller, when Wilson failed to timely refile the dismissed 2005 lawsuit by April 8, 2010, the end of the one year “savings statute” period after a dismissal without prejudice, causing the 2005 lawsuit to be time-barred; and (3) Mr. Wilson failed to act with reasonable diligence and promptness in representing a client, Calvin

Miller, when Wilson failed to timely file Miller's 2010 lawsuit within the applicable five year statute of limitation, or by on or about October 4, 2009, causing the second Miller lawsuit to be dismissed with prejudice as being time-barred. Arkansas Rule 1.3 requires that a lawyer shall act with reasonable diligence and promptness in representing a client.

C. The conduct of Jimmie Lee Wilson violated Rule 3.2 in that (1) Mr. Wilson failed to make reasonable efforts to expedite litigation consistent with the interests of his client Calvin Miller, when Wilson failed to serve the defendants in Miller's 2005 lawsuit, causing the suit to be dismissed without prejudice; (2) Mr. Wilson failed to make reasonable efforts to expedite litigation consistent with the interests of his client Calvin Miller, when Wilson failed to timely refile the dismissed 2005 lawsuit by April 8, 2010, the end of the one year "savings statute" period after a dismissal without prejudice, causing the 2005 lawsuit to be time-barred; and (3) Mr. Wilson failed to make reasonable efforts to expedite litigation consistent with the interests of his client Calvin Miller, when Wilson failed to timely file Miller's 2010 lawsuit within the applicable five year statute of limitation, or by on or about October 4, 2009, causing the second Miller lawsuit to be dismissed with prejudice as being time-barred. Arkansas Rule 3.2 requires that a lawyer shall make reasonable efforts to expedite litigation consistent with the interests of the client.

D. The conduct of Jimmie Lee Wilson violated Rule 3.4(c) in that (1) Mr. Wilson failed to pay his 2006 Arkansas Bar law license fee by March 1, 2006; (2) Mr. Wilson failed to pay his 2007 Arkansas Bar law license fee by March 1, 2007; (3) Mr. Wilson failed to pay his 2008 Arkansas Bar law license fee by March 1, 2008; (4) Mr. Wilson failed to pay his 2010 Arkansas Bar law license fee by March 1, 2010; and (5) Mr. Wilson failed to pay his

2011 Arkansas Bar law license fee by March 1, 2011, all as required by Arkansas Supreme Court Rule VII.C, Rules Governing Admission to the Bar. Arkansas Rule 3.4(c) requires that a lawyer shall not knowingly disobey an obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists.

E. The conduct of Jimmie Lee Wilson violated Rule 4.4(a) in that after the 2005 Calvin Miller suit was dismissed in April 2009, and not refiled within one year, and knowing the underlying applicable statute of limitation was five years on Miller's claims from October 4, 2004, Wilson filed the second and identical Miller suit on April 28, 2010, when Wilson knew, or reasonably should have known, at the time that the second suit was time-barred by the applicable five year statute of limitation, conduct by Wilson having no substantial purpose other than to embarrass, delay, or burden a third person, being Helena Housing Authority and/or Lionell Moss, especially when Wilson failed to even file a response to defendants' motion for summary judgment, which was granted, dismissing the second Miller lawsuit with prejudice as being time-barred. Arkansas Rule 4.4(a) requires, in pertinent part, that, in representing a client, a lawyer shall not use means that have no substantial purpose other than to embarrass, delay, or burden a third person.

F. The conduct of Jimmie Lee Wilson violated Rule 5.5(a) in that (1) Mr. Wilson failed to pay his 2006 Arkansas Bar law license fee by March 1, 2006, resulting in the automatic suspension of his Arkansas law license through May 12, 2006, when he did pay for 2006; (2) Mr. Wilson failed to pay his 2007 Arkansas Bar law license fee by March 1, 2007, resulting in the automatic suspension of his Arkansas law license through May 23, 2007, when he did pay for 2007, and during the time his license was suspended in 2007, Mr. Wilson

practiced law in at least the cases of Jarrett v. State Farm Mutual, Phillips Circuit CV-2007-121, and Martin v. Agricultural Productivity, United States District Court, Eastern District of Arkansas, No. 07-CV-49; (3) Mr. Wilson failed to pay his 2008 Arkansas Bar law license fee by March 1, 2008, resulting in the automatic suspension of his Arkansas law license through May 5, 2008, when he did pay for 2008; (4) Mr. Wilson failed to pay his 2010 Arkansas Bar law license fee by March 1, 2010, resulting in the automatic suspension of his Arkansas law license through March 26, 2010, when he did pay for 2010; and (5) Mr. Wilson failed to pay his 2011 Arkansas Bar law license fee by March 1, 2011, resulting in the automatic suspension of his Arkansas law license through May 20, 2011, when he did pay for 2011, and Wilson practiced law while his law license was suspended during this period, including in the case of Lovelace v. American National Property & Casualty Company, Phillips Circuit CV-2011-79, where the current Complaint was filed by Mr. Wilson on March 4, 2011, and a Motion for Extension of Time was filed by Mr. Wilson on May 3, 2011. Arkansas Rule 5.5(a) provides that a lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so.

G. The conduct of Jimmie Lee Wilson violated Rule 8.4(d) in that in filing the second Miller lawsuit on April 28, 2010, clearly after both the one year “savings statute” period and the applicable five year statute of limitation had expired, Mr. Wilson caused the trial court to devote its limited resources and time to having to deal with a case that was dismissed with prejudice as soon as the situation was presented to the court by motion for summary judgment, conduct by Mr. Wilson, an experienced trial lawyer, 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, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct, acting through its authorized Panel B, that **JIMMIE LEE WILSON**, Arkansas Bar ID# 73128, be, and hereby is, **REPRIMANDED** for his conduct in this matter, assessed a \$1,000.00 fine, restitution of \$2,176.00 for the benefit of the Helena Housing Authority through Byron Freeland its attorney, and \$50.00 costs. In assessing this sanction, the Respondent's prior disciplinary record was a factor. As separate sanctions for failing to respond to the Complaint, Respondent Wilson is assessed a separate and second **REPRIMAND** and fined an additional \$1,000.00 The fines, restitution, and costs assessed herein, totaling \$4,226.00, 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

By: 

James S. Dunham, Chair, Panel B

Date: December 16, 2011