

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

IN RE: Malcolm Simmons, Respondent Attorney
 Arkansas Bar No. 91243
 Case No. CPC-2025-034

CONSENT FINDINGS & ORDER

The formal charges of misconduct upon which this Consent Order is premised, involving respondent attorney Malcolm Simmons (Simmons) of Pulaski County, Arkansas, arose from information brought to the attention of the Committee on Professional Conduct by Michael Kaiser (Kaiser).

1. Simmons is licensed by the Supreme Court of Arkansas and has been assigned Arkansas Bar No. 91243.

2. On or about May 17, 2022, Simmons filed his Notice of Appearance as counsel for James Earl Thompson (Thompson) in 60CR-22-756.

3. On or about September 10, 2024, Thompson was found guilty of Rape and Second-Degree Sexual Assault and sentenced to thirty years in prison.

4. On or about October 1, 2024, Melody Thompson, Thompson's wife, filed a pro se Notice of Appeal on Thompson's behalf.

5. On or about November 14, 2024, Kaiser was retained as appellate counsel for Thompson.

6. Kaiser was informed that Simmons failed to file a Notice of Appeal for Thompson despite Thompson's desire to appeal.

7. On or about November 16, 2024, Kaiser filed an Amended Notice of Appeal and Designation of Record.

8. On or about November 18, 2024, Kaiser filed a Motion for Extension of Time for Filing Record on Appeal.

9. On or about November 26, 2024, the Court granted Kaiser's Motion for Extension of Time.

10. On or about November 26, 2024, Kaiser spoke with Simmons by phone to ask why Simmons declined to file Thompson's Notice of Appeal. Simmons responded that he did not believe he could, in good conscience, file Thompson's Notice of Appeal because there were no meritorious issues to raise.

11. On or about December 2, 2024, Kaiser submitted a grievance to the Office of Professional Conduct (OPC).

12. On or about November 3, 2025, Simmons submitted his response wherein he admitted that he did not file a Notice of Appeal for Thompson.

13. On or about November 6, 2025, OPC filed a formal complaint against Simmons.

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 (2012). 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 D of the Committee on Professional Conduct, and the Arkansas Rules of Professional Conduct, the Committee on Professional Conduct finds:

A. The conduct of Simmons, as set forth in the formal complaint, violated **Rule 1.1** when he lacked knowledge of his duty to file a Notice of Appeal for his client under the Arkansas Criminal Rules of Appellate Procedure. **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. **Rule 16(a)(i) of the Arkansas Criminal Rules of Appellate Procedure** requires that trial counsel, whether retained or court-appointed, shall continue to represent a convicted defendant throughout any appeal to the Arkansas Supreme Court or Arkansas Court of Appeals, unless permitted by the trial court or the appellate court to withdraw in the interest of justice or for other sufficient cause.

B. The conduct of Simmons, as set forth in the formal complaint, violated **Rule 1.16(c)** when he ceased to represent Thompson before seeking permission from the court to withdraw in violation of the **Arkansas Criminal Rules of Appellate Procedure**. Simmons did not seek permission to withdraw as Thompson's counsel and declined to file a Notice of Appeal for Thompson while he continued to be attorney of record. **Arkansas Rule 1.16(c)** requires that a lawyer must comply with applicable law requiring notice to or permission of a tribunal when terminating a representation. **Rule 16(a)(i) of the Arkansas Criminal Rules of Appellate Procedure** requires that trial counsel, whether retained or court-appointed, shall continue to represent a convicted defendant throughout any appeal to the Arkansas Supreme Court or Arkansas Court of Appeals, unless permitted by the trial court or the appellate court to withdraw in the interest of justice or for other sufficient cause.

C. The conduct of Simmons, as set forth in the formal complaint, violated **Rule 8.4(d)** when his failure to file Thompson's appeal compelled Thompson to file a pro se Notice of Appeal, which delayed the appellate process due to its deficiencies. **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 Simmons and

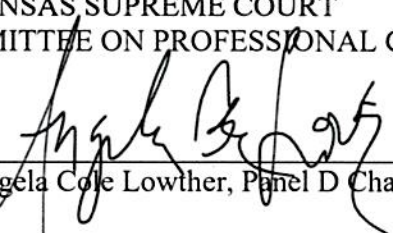
the Executive Director, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct that Respondent Malcom Simmons Arkansas Bar No. 91243, be, and hereby is, REPRIMANDED for his conduct in this matter.

The Panel further assesses a costs of one-hundred fifty dollars (\$150.00).

The costs 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

By: _____


Angela Cole Lowther, Panel D Chair

Date: 2-13-26