

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT

IN RE: **JOHN W. SETTLE**
Arkansas Bar ID # 77123
CPC Docket No. 2008-084

FILED

APR 30 2009

LESLIE W. STEEN
CLERK

FINDINGS AND ORDER

The formal charges of misconduct upon which this Order is based arose out of information that came to the attention of the Committee from Mr. Larry Niblett. In CR-04-58, *State of Arkansas v. Larry Niblett*, the Scott County Circuit Court convicted Mr. Niblett with the manufacture of methamphetamine and possession of drug paraphernalia and sentenced him to forty years in the Arkansas Department of Correction. The Arkansas Court of Appeals affirmed the conviction on August 30, 2006, in Case No. CACR06-17, *Larry E. Niblett, v. State of Arkansas*. Niblett filed a petition for review, which the Arkansas Supreme Court denied on October 12, 2006. On December 13, 2006, Niblett filed a *pro se* Rule 37. The appeal was dismissed as untimely on June 14, 2007. Thereafter, Niblett sought to file a federal habeas petition.

On October 9, 2007, Larry's mother, Lois Niblett, paid Mr. Settle \$5,000 to file a federal habeas petition. Ms. Niblett did not communicate with Mr. Settle again until January 2008 when Mr. Settle said he would have the petition ready and would provide her and Larry with copies. They never received anything from Mr. Settle. In April 2008, Ms. Niblett terminated Mr. Settle and demanded a refund. On or about May 13, 2008, Mr. Settle refunded Ms. Niblett \$1,200. On June 2, 2008, Mr. Settle refunded the remaining \$3,800.

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 B of the Committee on Professional Conduct finds:

- A. That Mr. Settle violated Arkansas Rule 1.1 and did not provide Larry Niblett with

competent representation when he failed to file the habeas petition before the expiration of the one-year limitation set by 28 U.S.C. § 2244(d). 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.

WHEREFORE, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct, acting through its authorized Panel B, that **JOHN W. SETTLE**, Arkansas Bar ID# 77123 be, and hereby is, **CAUTIONED**, for his conduct in this matter. Further, Mr. Settle is ordered to pay **\$50.00 COMMITTEE COSTS** and a **\$1,000 FINE**. The costs and fine assessed herein, totaling \$1,050, 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 Valerie Kelly
Valerie Kelly, Chairperson, Panel B

Date December 29, 2008