

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT
PANEL B

FILED

IN RE: DANA A. REECE
ARKANSAS BAR ID NO. 87142
CPC DOCKET NO. 2008-106

FEB 23 2009

LESLIE W. STEEN
CLERK

CONSENT FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee by the Arkansas Supreme Court on September 11, 2008. The information related to the representation of Edward William Doss by Reece in 2007 and 2008.

Dana A. Reece represented Doss in an appeal from a denial of a writ of habeas corpus petition in the Hot Spring County Circuit Court, Case No. CV2006-218-1. Doss had been convicted of rape in Arkansas County Circuit Court in August, 2003, and sentenced to a term of twenty years in the Arkansas Department of Correction. Doss was serving his sentence at Ouachita River Correctional Facility in Malvern, Arkansas, when he filed a *pro se* Petition for Writ of Habeas Corpus with the Hot Spring County Circuit Court. After filing his *pro se* Petition for Writ of Habeas Corpus, Doss employed Reece to represent him in the matter. An Order denying the petition for writ of habeas corpus was entered on September 4, 2007. Rule 4(a) of the Rules of Appellate Procedure—Civil requires that a notice of appeal be filed within thirty days from the entry of the judgment, decree or order appealed from. As the order was entered on September 4, 2007, a notice of appeal was required to be filed on or before October 4, 2007. On October 1, 2007, Reece prepared a notice of appeal and faxed it to telephone number (501) 609-9043. Telephone number (501) 609-9043 was the fax number for the Garland County Circuit

Clerk. The Garland County Clerk faxed the notice of appeal back to Reece with the file-mark crossed out. Reece then changed the heading on the notice of appeal from "In the Circuit Court of Hot Spring County, Arkansas" to "In the Circuit Court of Garland County, Arkansas" and returned the fax to the Garland County Circuit Clerk.

Reece called the Hot Spring County Circuit Clerk on December 18, 2007, to inquire whether the transcript was ready to be picked up for filing with the Arkansas Supreme Court Clerk but was advised that there was no notice of appeal filed in the case.

On July 24, 2008, Reece tendered the record of the lower court proceedings to the Arkansas Supreme Court Clerk with a Motion for Belated Appeal. On September 11, 2008, the Arkansas Supreme Court issued a *Per Curiam* Order granting the Motion for Belated Appeal.

Reece was served with a formal complaint and a response was filed. Reece and the Executive Director negotiated a discipline by consent proposal, which was submitted to this Panel.

Upon consideration of the formal complaint and attached exhibit materials, the consent proposal, and other matters before it, and the Arkansas Model Rules of Professional Conduct, Panel B of the Arkansas Supreme Court Committee on Professional Conduct finds:

1. Dana A. Reece failed to file a timely notice of appeal on behalf of her client, Edward William Doss, following the entry of an Order denying his petition for habeas corpus filed on September 4, 2007, in the case of Edward Willaim Doss v. State of Arkansas, Hot Spring County Circuit Court, Case No. CV2006-218-1. Rule 1.3 requires that a lawyer act with reasonable diligence and promptness in representing a client.

WHEREFORE, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct, acting through its authorized Panel B, that DANA A. REECE, Arkansas Bar ID No. 87142, be, and hereby is, CAUTIONED for her conduct in this matter, fined the sum of TWO HUNDRED FIFTY DOLLARS (\$250.00) and assessed costs in the amount of FIFTY DOLLARS (\$50.00). The fine and 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 - PANEL B

By: Valerie Kelly
Valerie Kelly, Chair, Panel B

Date: 2/20/09