

**ARKANSAS SUPREME COURT
OFFICE of PROFESSIONAL CONDUCT**

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October 24, 2016

Via email: tyclevenger@yahoo.com

Ty O. Clevenger
Attorney at Law
21 Bennett Avenue, #62
New York, NY 10033

RE: Hillary Rodham Clinton, OPC File No. T2016-495

Dear Mr. Clevenger:

I am in receipt of and here respond to your letter faxed to this office on October 17, 2016. In a letter dated September 1, 2016, you wrote this Office and stated that you wished to file a misconduct complaint against Ms. Clinton. You included with your letter an August 15, 2016, letter from Representatives Jason Chaffetz and Bob Goodlatte, referring Ms. Clinton's testimony before Congress to the United States Attorney for the District of Columbia. You also included a copy of your August 31, 2016, misconduct complaint letter to the District of Columbia Office of Disciplinary Counsel referring attorneys Kendall, Mills, and Samuelson to that office.

In your October 17, 2016 letter to us, you cite and set out Section 5(C)(3) of the Procedures of the Arkansas Supreme Court Regulating Professional Conduct of Attorneys at Law (2016). While you correctly cite one of the duties of the Executive Director, it appears you may have overlooked the first phrase of that section, "*Upon a determination by the Executive Director that a complaint sets out allegations falling within the purview of the Committee and that those allegations are supported by sufficient evidence...*"

On October 10, 2016, you sent an email to this Office inquiring about when a decision would be made by this office. Deputy Director Harmon responded on that same day to your email and advised you that the matter, to our knowledge, had been referred to the United States Attorney for the District of Columbia by Representatives Chaffetz and Goodlatte and remains under investigation there. As Mr. Harmon stated, once the United States Attorney's Office in D.C. has and announced its final determination, and possibly there has been judicial action, a determination will be made at this office on the record then available to us as to whether there is a basis for a formal complaint in Arkansas. I do note that none of the conduct you or the congressional letter identifies by Ms. Clinton occurred in the state of Arkansas or appears to have

any nexus to this state other than she is licensed in Arkansas. I also note that you do not appear, to our knowledge, to have filed this complaint against Ms. Clinton in any other jurisdiction, and especially in the District of Columbia or the State of New York where the email-related conduct did occur or most likely occurred.

On your LawFlog blog, I see you informed the public on October 19, 2016, that Elizabeth Herman, Deputy Director of the District of Columbia Office of Disciplinary Counsel, contacted you and informed you she was sending you a letter that her office would not act on your complaint filed there against three D.C.-licensed attorneys arising out of the Clinton e-mail matter. As soon as the Herman letter is available to you, I ask that you provide our office a copy by scanned e-mail and/or fax.

As part of our investigation, this office is in the process of attempting to obtain further documentation from various sources about the conduct you complain of by Ms. Clinton. The amount of materials is large. To some extent, our efforts to date in this area have met with various confidentiality policies and rules at different organizations that possess such information. If you possess any such reports or other relevant documentation that you did not provide us in your previous communications, please feel free to supplement our file. For one, we do not yet possess any complete transcript of FBI Director Comey's appearance before the congressional committee in July 2016, or any full FBI report on these matters, if one has been released since July 5, 2016. We also do not yet possess any full transcript of the October 22, 2015, hearing at which Ms. Clinton testified at length about the Benghazi matter.

In your letter, you mention that you will likely seek mandamus relief. I would suggest you look at the case of *Hogue v. Neal*, 340 Ark. 250, 12 S.W.3d 186 (2000). In that case, the Arkansas Supreme Court granted the petition for mandamus filed by Hogue. In that case, there was an April 12, 1999, opinion and order of the United States District Court for the Eastern District of Arkansas finding William Jefferson Clinton in contempt for willful failure to obey that court's discovery orders and finding that Mr. Clinton willfully lied under oath in his deposition and in sworn discovery responses. The order was provided to the Office of Professional Conduct but no action had been taken by the Office as of the date of the filing of Hogue's petition for mandamus. The facts which were present in the *Hogue* case are not present in the matter which you filed with this Office. Significantly, there has been no judicial complaint against Ms. Clinton, as there was in *Hogue v. Neal*. Even if there had been a judicial complaint filed here, Section 3(B), now 5(C)(1), of the Procedures was amended several years ago to change "shall accept and treat as a complaint" to "may accept and treat as a complaint." There has not been a finding that Ms. Clinton has been found to be in contempt by any judicial entity, as was the case in *Hogue v. Neal*. Nor has there been a delay here in our investigating your complaint, only received here on September 1, 2016, as there was in *Hogue v. Neal*, from Hogue's filing of his complaint in September 1998, to his filing of his mandamus action in December 1999.

The matter and allegations upon which your complaint is based remains under investigation by the United States Attorney for the District of Columbia and possibly other agencies. Should there be a decision and finding which supports by sufficient evidence that Ms. Clinton violated the Arkansas Rules of Professional Conduct, a determination whether a formal

complaint will be made at that time. As this office continues its active investigation of this file, we welcome any additional information and documentation you wish to provide us. I hope this letter addresses your concerns.

Sincerely,

A handwritten signature in blue ink that reads "Stark Ligon". The signature is written in a cursive style with a large, sweeping initial 'S'.

Stark Ligon,
Executive Director