

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

IN RE: DALE W. FINLEY

ARKANSAS BAR ID #67017

CPC DOCKET NO. 2002-030

**FINDINGS AND ORDER**

The formal charges of misconduct arose from the Arkansas Supreme Court case of Charles Anthony Martin v. State of Arkansas, CR 2001-1072. On October 20, 2000, Mr. Martin entered a conditional plea to a charge of manufacturing methamphetamine which could be withdrawn upon successful appeal. Mr. Martin was sentenced to ten years in the Arkansas Department of Correction. After entering his plea, Mr. Martin advised his attorney, Dale W. Finley of Russellville, Arkansas, that he wished to appeal the court's ruling on a suppression motion. As of June 2001, Mr. Finley had not filed a Notice of Appeal. On October 2, 2001, Attorney Patrick Benca filed an application for belated appeal on behalf of Mr. Martin. On October 25, 2001, the Arkansas Supreme Court remanded the matter to the Cleburne County Circuit Court to determine whether Mr. Martin had requested Mr. Finley to file a notice of appeal. The Cleburne County Circuit Court concluded that Mr. Martin had directed Mr. Finley to file an appeal but Mr. Finley had failed to do so. On January 31, 2002, the Arkansas Supreme Court granted the application for belated appeal and referred the matter to the Office of Professional Conduct. Mr. Finley was served with a formal complaint alleging violations of the Model Rules of Professional Conduct. Mr. Finley admitted the allegations contained in the formal complaint.

Upon consideration of the formal complaint, Mr. Finley's response, and the Arkansas Model Rules of Professional Conduct, the Committee on Professional Conduct finds:

1. That Mr. Finley's conduct violated Model Rule 1.2(a) when he failed to file a notice of appeal on behalf of his client, Charles Anthony Martin, when Mr. Martin had requested that a notice of appeal be filed. Model Rule 1.2(a) requires, in pertinent part, that a lawyer abide by a client's decisions concerning the objectives of representation and shall consult with the client as to the means by which they are to be pursued. In a criminal case, the lawyer shall abide by the client's decision, after consultation with the lawyer.
2. That Mr. Finley's conduct violated Model Rule 1.3 when he failed to file a timely notice of appeal after being directed to do so by his client, Charles Anthony Martin. Model Rule 1.3 requires that a lawyer act with reasonable diligence and promptness in representing a client.
3. That Mr. Finley's conduct violated Model Rule 3.4(c) when, upon being informed by his client, Charles Anthony Martin, that he wanted to file an appeal from the Cleburne County Circuit Court, he failed to comply with Rule 16 of the Rules of Appellate Procedure-Criminal, which states that trial counsel, whether retained or court appointed, shall continue to represent a convicted defendant throughout any appeal to the Arkansas Supreme Court, unless permitted by the trial court or the Arkansas Supreme Court to withdraw in the interest of justice or for other sufficient cause. Model Rule 3.4(c) requires, in pertinent part, that a lawyer 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.
4. That Mr. Finley's conduct violated Model Rule 8.4(d) when his failure to file a timely notice of appeal on behalf of his client, Charles Anthony Martin, resulted in the Arkansas Supreme Court expending additional time and effort to address a matter which would not have been necessary otherwise, and additionally resulted in the Cleburne County Circuit Court having to conduct a hearing on whether Mr. Martin requested Mr. Finley to file a notice of appeal. Model Rule 8.4(d) requires that a lawyer not 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 that DALE W. FINLEY, Arkansas Bar ID No. 67017, be, and hereby is, REPRIMANDED for his conduct in this matter.

ARKANSAS SUPREME COURT COMMITTEE

ON PROFESSIONAL CONDUCT - PANEL B

By: \_\_\_\_\_

Richard Hatfield, Chair - Panel B

Date: \_\_\_\_\_