

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT

PANEL C

IN RE: ROBERT D. KLOCK

Arkansas Bar ID #76066

CPC Docket No. 2002-131

FINDINGS & CONSENT ORDER OF DISCIPLINE

The formal charges of misconduct upon which this Consent Order is premised, involving respondent attorney Robert D. Klock of Lowell, Benton County, Arkansas, arose from information brought to the attention of the Committee on Professional Conduct.

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 (2002). 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 C of the Committee on Professional Conduct, and the Arkansas Model Rules of Professional Conduct, the Committee on Professional Conduct finds:

Robert D. Klock represented Angel Flores in a jury trial in Washington County Circuit Court on felony charges of murder in the first degree of his wife and battery in the second degree of another person. Mr. Flores was convicted of the maximum punishment on the murder charge, life in prison, and eighteen (18) months on the battery charge, which sentences were made to run concurrent one with another. Due to trial counsel's totally ineffective assistance and performance up to and at his trial, Flores was unable to pursue a direct appeal. After the trial court denied Flores' motion for new trial, on the grounds of ineffective assistance of counsel, the Supreme Court treated his motion and allegations of ineffective assistance of counsel therein as his appeal, reversed the trial court, and remanded the case for a new trial. Trial counsel's performance was found to be deficient in that counsel permitted his client to be tried in front of a jury in distinctive jail clothing and while wearing leg irons; counsel made no motions; counsel waived opening statement twice; counsel failed to make even one objection in regard to any trial error; counsel failed to object to any evidence; counsel called only the defendant as a witness (and only in the guilt phase - no defense witnesses were called in the penalty phase); counsel neither investigated the law nor the facts pertaining to the client's case; counsel failed to file a discovery motion, any suppression motions with regard to his client's statements, or a "Brady" motion for any exculpatory evidence in the possession of the State.

1. That Mr. Klock's conduct violated Model Rule 1.1 in that he failed to display, acquire, or utilize the legal knowledge, basic skills, thoroughness and preparation necessary to try a major felony case. The Supreme Court found that he failed to make any motions, even the most basic ones in any criminal case - for discovery, for exculpatory evidence, to suppress his client's custodial statements, to make even one evidentiary objection at trial, or to prevent his client being tried in front of a jury in distinctive jail clothing and leg irons, in violation of clear legal authority that his right to a fair trial was being violated by such conditions. He failed to consider a possible lesser-included offense - manslaughter - for purposes of either plea negotiation or for a jury instruction at trial. He failed to thoroughly review the entire State's file provided to him. Model 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.

2. Mr. Klock's conduct violated Model Rule 8.4(d) when his ineffective assistance in representation of his client led to a reversal of Mr. Flores' conviction and a remand for a new trial, which will take additional time and resources from the trial court, which might not have been required if he had properly prepared for and conducted Mr. Flores' trial. Model Rule 8.4(d) requires that a lawyer shall not engage in conduct that is prejudicial to the administration of justice.

WHEREFORE, in accordance with the consent to discipline presented by Robert D. Klock and the Executive Director, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct that Respondent Robert D. Klock, Arkansas Bar No. 76066, be, and he hereby is, CAUTIONED for his conduct in this matter.

ARKANSAS SUPREME COURT COMMITTEE

ON PROFESSIONAL CONDUCT - PANEL C

By _____

Ken R. Reeves, Committee Chairperson

Date _____