

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT

IN RE: DALE WINSTON FINLEY

ARKANSAS BAR ID #67017

CPC DOCKET No. 2001-043

FINDINGS AND ORDER

The formal charges of misconduct arose from the Arkansas Supreme Court case of Steve Sanders v. State of Arkansas, CR 2001-262. Dale Winston Finley, an attorney practicing law in Russellville, Arkansas, represented Steve Sanders in a criminal matter. On September 14, 2000, a judgment of conviction was filed and a facsimile notice of appeal was timely filed on October 10, 2000. The record of appeal was due to be filed on January 8, 2001 but was not tendered until January 12, 2001. On March 5, 2001, Mr. Finley filed a Motion for Rule on the Clerk and, on March 29, 2001, the Arkansas Supreme Court granted the Motion for Rule on the Clerk in a Per Curiam Order. The Court referred the matter to the Committee on Professional Conduct.

For his response, Mr. Finley admitted that the notice of appeal was filed by facsimile on October 10, 2000 but the original was not filed until October 16, 2000. Attorney relied upon the file-marked date on the Notice of Appeal of October 16, 2000 and tendered the record on January 12, 2001, which would have been timely had the October 16, 2000 notice of appeal been the first notice of appeal.

Upon consideration of the formal complaint, the response herein, and the Arkansas Model Rules of Professional Conduct, the Committee on Professional Conduct finds:

1. That Mr. Finley's conduct violated Model Rule 1.3 when he failed to file in a timely manner with the Arkansas Supreme Court the record of the lower court proceedings on behalf of Steve Sanders, his client. Model Rule 1.3 requires that a lawyer act with reasonable diligence and promptness in representing a client.
2. That Mr. Finley's conduct violated Model Rule 8.4(d) when his failure to file in a timely manner the record with the Supreme Court resulted in a delay in the orderly and timely resolution of appellate proceedings and his failure to timely file his client's record required the Court to expend additional time and effort which would not have been necessary otherwise. 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 WINSTON FINLEY, Arkansas Bar ID No. 67015, be, and hereby is, CAUTIONED for his conduct in this matter.

ARKANSAS SUPREME COURT COMMITTEE

ON PROFESSIONAL CONDUCT

By: _____

Bart Virden

Chairman

Date: _____