

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT

PANEL B

IN RE: Randall Wayne Dixon, Respondent

Arkansas Bar ID #83052

CPC Docket No. 2001- 132

FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee by Circuit Judge Paul Danielson, John C. Riedel, Kellie Garrison, and Jeremy Boze in October-November 2001. The information related to the representation of Jeremy Boze by Respondent in 2001.

On December 17, 2001, Respondent was served with a formal complaint, supported by affidavits from Judge Danielson, Mr. Riedel, Ms. Garrison and Mr. Boze. Respondent failed to file a response to the complaint, which failure to timely respond, pursuant to Section 9.C(4) of the Procedures, constitutes an admission of the factual allegations of the formal complaint and extinguishes Respondent's right to a public hearing.

The complaint alleged Jeremy Boze was charged with felony theft in Yell County Circuit Court, and was represented by Randall Dixon of Dardanelle, Arkansas, as private counsel. Boze was convicted at a jury trial in January 2001, and put on 84 months probation, but the matter of the amount of restitution he was to pay to the victim was held open for later determination. Negotiations between Chief Deputy Prosecuting Attorney John Riedel and Mr. Dixon led to an offer of \$30,000 being conveyed by fax from Riedel to Dixon on June 26, 2001, before a hearing on the issue set for July 2. The offer was never communicated to Boze by Dixon. Boze appeared at the July 2 hearing, but Dixon failed to appear. The Court fixed Boze's restitution at \$66,500, costing him a total of an additional \$36,500 he now must pay over the course of his probation. The Court attempted to contact Dixon about his failure to appear on July 2 but was unable to get a response from him. Thereafter, Boze chose to not pay his first two \$375 monthly probation payments of restitution, fine and costs on advice of his attorney, Dixon. Boze almost had a violation filed on his probation for this failure to pay before he changed his mind and made his payments.

Upon consideration of the formal complaint and attached exhibit materials, 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:

A. Mr. Dixon's conduct violated Model Rule 1.1 when he failed to communicate a favorable settlement offer on restitution to his client, Jeremy Boze. He then failed to appear with him at a crucial hearing on July 2, 2001, resulting in Mr. Boze now being ordered to pay an additional \$36,500 above the offer Mr. Dixon failed to convey to him. Mr. Dixon later advised Mr. Boze to not comply with the terms of his probation by not making monthly payments he was under a court obligation to make, almost resulting in his probation being violated. 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.

B. Mr. Dixon's conduct violated Model Rule 1.2(a) when he failed to communicate a favorable settlement offer to his client, Jeremy Boze, resulting in his restitution obligation being \$36,500 greater than it could have been if the client had known of the settlement offer and had a chance to consider accepting it. Model Rule 1.2 (a) requires that a lawyer shall 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. A lawyer shall abide by a client's decision whether to accept an offer of settlement of a matter.

C. Mr. Dixon's conduct violated Model Rule 1.3 when he failed to exercise reasonable diligence and promptness in representing his client Jeremy Boze by failing to communicate a favorable settlement offer to him and failing to appear with him at a critical hearing, despite having knowledge of the hearing. Model Rule 1.3 requires that a lawyer shall act with reasonable diligence and promptness in representing a client.

D. Mr. Dixon's conduct violated Model Rule 1.4(a) when he failed to communicate a very favorable settlement offer to his client, resulting in a judgment against the client \$36,500 in excess of the offer presented to Mr. Dixon for communication to his client Boze. Model Rule 1.4(a) requires that a lawyer shall keep a client reasonably informed about the status of a matter.

E. Mr. Dixon's conduct violated Model Rule 3.4(c) when he, knowing of the July 2 court hearing for his client Jeremy Boze, failed to appear without any reason being given to the court.

He later told his client he did not appear because his law license was suspended at the time due to non-payment of his license fee. Model Rule 3.4(c) requires that a lawyer shall 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.

F. Mr. Dixon's conduct violated Model Rule 8.4(d) when he failed to communicate the State's settlement offer to his client and when he advised his client not to make his court-ordered

probation payments, resulting in additional time and effort being required by the court on the

restitution matter and the probation department to compel his client's compliance with his

probation obligation. Model Rule 8.4(d) requires that a lawyer shall 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, acting through its authorized Panel B, that **RANDALL WAYNE DIXON**, Arkansas Bar ID# 83052, be, and hereby is, **SUSPENDED FOR ONE (1) YEAR** for his conduct in this matter. The suspension shall become effective on 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: _____

Richard F. Hatfield, Chair, Panel B

Date: _____