

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

IN RE: BILLY ELBERT ROSS

Arkansas Bar ID #68056

CPC Docket No. 2002-165

FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee by Judge Mike Gibson of the Osceola District Court, Mississippi County, Arkansas on September 19, 2002. The information related to the conduct of Respondent on September 11, 2002.

Upon consideration of the formal complaint and attached exhibit materials, the response to it, which requested diversion to the Arkansas Lawyer Assistance Program for an alcohol problem, other matters before it, and the Arkansas Model Rules of Professional Conduct, Panel A of the Arkansas Supreme Court Committee on Professional Conduct finds:

1. Mr. Ross's conduct violated Model Rule 1.3, when he appeared in court intoxicated on September 11, 2002, conduct which led his clients to ask that he not represent them in court, and in his failure to act with reasonable diligence in representing the interests of his clients. Model Rule 1.3 requires that a lawyer shall act with reasonable diligence and promptness in representing a client.
2. Mr. Ross's conduct violated Model Rule 3.2 when, by appearing in court intoxicated on September 11, 2002, conduct which led his clients to ask that he not represent them in court, he failed to make reasonable efforts to expedite their litigation consistent with the interests of the clients. Model Rule 3.2 requires that a lawyer shall make reasonable efforts to expedite litigation consistent with the interests of the client.
3. Mr. Ross's conduct violated Model Rule 3.4(c) when, after the presiding judge found him in direct contempt on September 11, 2002, for appearing in court in an intoxicated condition, and the judge specifically ordered him not to leave court until his Public Defender Supervisor arrived, he disobeyed the direct order of the court, departed, and was thereafter arrested for Driving While Intoxicated a short distance from the courtroom. 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.
4. Mr. Ross's conduct violated Model Rule 8.4(b) when, on September 11, 2002, he committed the criminal act of public intoxication in a courtroom in which he was appearing to represent clients in pending matters, and he committed the criminal act of Driving While Intoxicated (DWI) shortly after leaving the courtroom in direct violation of the court's order that he not leave until his supervisor arrived, both being criminal acts reflecting adversely on his fitness as a lawyer. Model Rule 8.4(b) requires that a lawyer shall not commit a criminal act that reflects adversely on the lawyer's fitness as a lawyer in other respects.
5. Mr. Ross's conduct violated Model Rule 8.4(d) when his intoxication in open court on September 11, 2002, and his unauthorized removal from court caused delay in the administration of his clients' cases pending for action that day. 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 A, that Billy Elbert Ross, Arkansas Bar ID# 68056, be, and he hereby is, referred to the Arkansas Lawyer Assistance Program (ArLAP) for his conduct in this matter. Imposition of further diversion, sanctions, fines, and costs is hereby suspended for six (6) months pending the Panel being timely informed as to Respondent's progress and compliance with any treatment program and conditions imposed by ArLAP. Respondent's failure to comply with ArLAP-imposed treatment and conditions may result in the Panel imposing any sanction or combination thereof, which it could have imposed as a result of the above findings.

ARKANSAS SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT - PANEL A

By: _____

Gwendolyn D. Hodge , Chair, Panel A

Date: _____

