

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

**PANEL A**

IN RE: DON GILLASPIE

Arkansas Bar ID#61010

CPC Docket No. 2002-032

**FINDINGS AND ORDER**

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee by a referral from the Arkansas Supreme Court on February 7, 2002. The information related to the representation of Undra Monta Singleton by Respondent in 2001 and 2002 in the case of Undra Monta Singleton v. State of Arkansas, CR 2002-57.

Gillaspie represented Undra Monta Singleton in Ashley County Circuit Court. A Judgment and Commitment Order was entered on August 17, 2001, sentencing Singleton to a term of forty-two (42) years in the Arkansas Department of Correction. A timely Notice of Appeal was filed by Gillaspie on September 10, 2001. Pursuant to Rule 5(a) of the Arkansas Rules of Appellate Procedure–Civil, the record on appeal is to be filed with the clerk of the Arkansas Supreme Court within ninety (90) days from the filing of the first Notice of Appeal, unless the time is extended by order of the circuit court. No Motion for Extension of Time was filed by Gillaspie and no order was entered by the Ashley County Circuit Judge to extend the time to file the record on appeal. The record was tendered more than a month after the ninety (90) day period. Gillaspie filed a Motion for Rule on the Clerk on January 15, 2002. On February 7, 2002, the Arkansas Supreme Court granted the Motion for Rule on the Clerk and referred the matter to the Office of Professional Conduct.

In July 2002, Panel B of the Committee on Professional Conduct considered the formal complaint and attached exhibit materials, the response to it, and the Arkansas Model Rules of Professional Conduct. Panel B of the Arkansas Supreme Court Committee on Professional Conduct deferred action on the matter and referred Gillaspie to the Arkansas Lawyer Assistance Program (ArLAP) pursuant to Rule 7(A) of the Rules of the Arkansas Lawyer Assistance Program on July 8, 2002. Gillaspie was directed to enroll in an ArLAP program

within thirty (30) days of the Order of Referral or an Order of Interim Suspension would be filed on the thirtieth day following service of the Order of Referral. Gillaspie contacted the ArLAP program and signed an ArLAP Health Contract on August 1, 2002. Pursuant to Rule 7(B) of the Rules of the Arkansas Lawyer Assistance Program, a progress request was made by the Office of Professional Conduct to ArLAP concerning Gillaspie. According to Gail Harber, ArLAP Executive Director, on April 23, 2003, Gillaspie was non-compliant with ArLAP and had not followed through with any of the ArLAP requirements. This matter was then brought again to Panel B's attention on June 23, 2003. Following the decision of Panel B, Gillaspie was served with a copy of Panel B's decision by certified mail, restricted delivery, on July 17, 2003.

On August 7, 2003, a timely request for *de novo* hearing was received by the Office of Professional Conduct. A *de novo* hearing was thereafter set for September 19, 2003, before Panel A of the Committee on Professional Conduct. On September 19, 2003, Panel A heard testimony from Gail Harbor, Director of the Arkansas Lawyer Assistance Program, and from Respondent Gillaspie. Information presented by Gillaspie included that he suffered from hypertension, diabetes and depression. Following the presentation of testimony, Panel A requested Gillaspie to provide, by September 26, 2003, a statement from his medical provider whether Gillaspie's medical conditions impaired his ability to practice law. Panel A then adjourned the hearing to November 21, 2003.

On September 25, 2003, Gillaspie's medical provider issued a letter to Panel A of the Committee on Professional Conduct. The letter indicated that Gillaspie had been treated for diabetes and hypertension; that he was mentally alert; and that he showed no evidence of psychosis or confusion. The medical provider stated that there was no reason medically why he could not continue to practice law. The information was thereafter forwarded to the members of Panel A for their consideration.

On November 21, 2003, Panel A convened and, having considered the formal complaint, the response thereto, the testimony presented in September 2003, the additional information requested, and Gillaspie's prior disciplinary record as permitted by Section 19L of the Procedures Regulating Professional Conduct, Panel A of the Arkansas Supreme Court Committee on Professional Conduct made the following findings:

1. Mr. Gillaspie violated Model Rule 1.3 when he failed, in an appeal to the Arkansas Supreme Court, to undertake the necessary steps to obtain an Order extending the time to file the record on appeal beyond the initial ninety (90) days as required by Rule 5(a) of the Rules of Appellate Procedure–Civil and when he failed to file in a timely manner the record on behalf of his client, Undra Monta Singleton. Model Rule 1.3 requires that a lawyer act with reasonable diligence and promptness in representing a client.

2. Mr. Gillaspie violated Model Rule 8.4(d) when his failure to file with the Arkansas Supreme Court the record of the lower court proceedings resulted in a delay in the orderly and timely resolution of appellate proceedings which required the Court to expend additional time and effort that 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, acting through its authorized Panel A, that DON GILLASPIE, Arkansas Bar ID# 61010, be, and hereby is, REPRIMANDED, for his conduct and assessed costs in the amount of Fifty Dollars (\$50.00) for his conduct in this matter. In addition to the Reprimand, Gillaspie will be placed on period of SUPERVISED PROBATION for a period of SIX (6) MONTHS. During the period of Supervised Probation, Gillaspie will be responsible for submitting the name of an attorney, acceptable to the Office of Professional Conduct, who assents to supervise, monitor and assist Gillaspie, as required of the conditions of probation. During the period of Supervised Probation, Gillaspie shall direct his physician to submit a letter every sixty (60) days to the Office of Professional Conduct addressing his fitness to practice law and specifically addressing Gillaspie's depression. Willful or unjustified non-compliance with the conditions of probation will subject the matter to further proceedings. The costs assessed herein shall be payable by cashier's check or money order payable to the "Clerk, Arkansas Supreme Court" delivered to the Office of Professional Conduct within thirty (30) days of 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 A

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

Gwendolyn D. Hodge, Chair, Panel A

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