

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT

PANEL B

IN RE: BOYD ANDERSON TACKETT, JR.

ARKANSAS BAR No. 70070

CPC DOCKET No. 2006-100

CONSENT FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from information provided by Boyd Anderson Tackett, Jr., as a self-referral. The information related to the representation of Detrick Croston by Mr. Tackett in 2004

Boyd Anderson Tackett, Jr., represented Detrick Croston in a criminal case in Faulkner County Circuit Court, Case No, CR-2004-1061. On October 1, 2004, a Judgment and Commitment Order was entered sentencing Mr. Croston to a term of 180 months in the Arkansas Department of Correction on a charge of aggravated robbery as an habitual offender. Rule 2(a)(1) requires that a notice of appeal be filed within thirty (30) days of the date of entry of judgment. As the Judgment was filed on October 1, 2004, a notice of appeal was due to be filed no later than October 31, 2004. No notice of appeal on behalf of Detrick Croston was ever filed.

Detrick Croston filed with the Arkansas Supreme Court Clerk a *pro se* Motion for Belated Appeal on April 19, 2006, requesting a belated appeal pursuant to Rule 2(e) of the Rules of Appellate Procedure—Criminal. On May 11, 2006, the Arkansas Supreme Court issued a *Per Curia* Order dismissing the request for a belated appeal as the time limitations of Rule 2(e) require that a motion for belated appeal be filed within eighteen months from the date of the entry of judgment. As the entry of Judgment was filed on October 1, 2004, the time for filing a Motion for Belated Appeal lapsed on April 1, 2006.

Mr. Tackett self-reported his failure to file a timely notice of appeal on behalf of his client, Detrick Croston, and admitted to the facts and allegations contained in a Formal Complaint initiated by the Office of Professional Conduct.

Upon consideration of the formal complaint and attached exhibit materials, the response, the consent proposal, and other matters before it, and the Arkansas Rules of Professional Conduct, Panel B of the Arkansas Supreme Court Committee on Professional Conduct finds:

1. Boyd Anderson Tackett, Jr., violated Rule 1.2(a) when he failed to file a notice of appeal on behalf of his client, Detrick Croston, despite being requested by Mr. Croston to do so. Rule 1.2(a) requires that a lawyer abide by a client's decision, after consultation with the lawyer, as to a plea to be entered, whether to waive jury trial and whether the client will testify.

2. Boyd Anderson Tackett, Jr., violated Rule 1.3 when he failed to file a notice of appeal on behalf of his client, Detrick Croston. Rule 1.3 requires that a lawyer act with reasonable diligence and promptness in representing a client.

3. Boyd Anderson Tackett, Jr., violated Rule 3.4(c) when he failed to comply with Rule 2(a)(1) of the Rules of Appellate Procedure–Criminal when he failed to file a notice of appeal within thirty days of the date of entry of judgment and when he failed to comply with Rule 16 of the Rules of Appellate Procedure–Criminal, which requires that a lawyer continue to represent a client throughout any appeal to the Arkansas Supreme Court or Court of Appeals. Rule 3.4(c) states 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. Boyd Anderson Tackett, Jr., violated Rule 8.4(d) when he failed to file a notice of appeal on behalf of his client, Detrick Croston, which resulted in the loss of Mr. Croston's right to an appeal of his conviction being heard by the Arkansas Supreme Court or Court of Appeals. 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 B, that BOYD ANDERSON TACKETT, JR., Arkansas Bar ID No. 70070, be, and hereby is, CAUTIONED for his conduct in this matter.

By: _____

Harry Truman Moore, Chair, Panel B

Date: _____