

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

IN RE: Timothy Alan Ginn, Respondent

Arkansas Bar ID# 93108

CPC Docket No. 2001-110

FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee by Karsten Cannon on June 6, 2001. The information related to the representation of Mr. Cannon by Respondent in 1996.

On December 6, 2001, Respondent was served with a formal complaint, supported by an affidavit from Karsten Cannon. Respondent filed a response December 31, 2001. The information contained in the formal disciplinary complaint revealed that on May 1, 1996, Mr. Ginn, a public defender, visited Mr. Cannon at the Crittenden County Jail in Marion, Arkansas. Mr. Ginn told Mr. Cannon that he was his new attorney, that they needed to discuss the case, and that the jury trial would be that morning. This was Mr. Cannon's first time meeting with Mr. Ginn because initially two other attorneys were assigned to his case. Mr. Ginn told Mr. Cannon that he could avoid going to a jury trial if he would accept the twenty years the state was offering him. Prior to this meeting, Mr. Cannon had not received any notice that his trial was going to be that morning.

Mr. Ginn asked Mr. Cannon if he could get someone to bring him some free-world clothes since he shouldn't wear prison clothes to trial. Mr. Ginn arranged for Mr. Cannon to use the telephone but Mr. Cannon could not find anyone available on such short notice to bring him any other clothes. Around 9:30 a.m. that same morning, Mr. Ginn escorted Mr. Cannon to the hallway outside the courtroom and told him he would get a continuance because of the clothing situation. The court did not grant a continuance. As they were seated in the courtroom, Mr. Cannon told Mr. Ginn that he had not been given an opportunity to get any witnesses ready or to build a defense. Mr. Cannon was convicted and he then told Mr. Ginn to request an appeal for him. Mr. Ginn did file an appeal but did not communicate with Mr. Cannon during the appeals process.

Around June 29, 1997, Mr. Cannon wrote the appellate court and asked about the status of the appeal and found out that the appeal/conviction had been affirmed because the abstract in the appeal was flagrantly deficient and the Court of Appeals did not review the case on the merits. Mr. Ginn also failed to file a petition for review.

In his response, Mr. Ginn explained that the public defender's office did communicate with Mr. Cannon but he could not give any details about it because the file is missing from their office. Mr. Ginn stated that he regrets the problems with the appeal but that it was his first appeal and that he thought it was properly prepared because he used a prior appeal, filed by the public defender's office in another unrelated case, as his example. Mr. Ginn further states that it would have been fruitless for him to file a petition for review because he says the Supreme Court has consistently affirmed decisions of the Court of Appeals where the abstract is found to be fatally deficient.

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

- That Mr. Ginn's conduct violated Model Rule 1.1 when he failed to prepare properly for trial by failing to communicate with his client prior to the trial date, by not giving his client prior notice of his trial date, by submitting a flagrantly deficient abstract to the Arkansas Court of Appeals on behalf of his client, and by failing to file a petition for review even though the decision on the appeal was split 3-3 and included a dissenting opinion. Model Rule 1.1 provides 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.
- Mr. Ginn's conduct violated Model Rule 1.3 when he failed to notify his client of the trial date prior to the date. Model Rule 1.3 provides that a lawyer shall act with reasonable diligence and promptness in representing a client.
- Mr. Ginn's conduct violated Model Rule 1.4(a) when he failed to inform his client prior to trial of the trial date, and when he failed to communicate with his client during the appeals process. Model Rule 1.4(a) provides that a lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.
- Mr. Ginn's conduct violated Model Rule 1.4(b) when he failed to communicate with his client prior to trial, and when he failed to communicate with his client during the appeals process. Model Rule 1.4(b) provides that a lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.
- Mr. Ginn's conduct violated Model Rule 8.4(d) when he failed to inform his client prior to trial of the trial date and as a result the client had to appear in his prison uniform, and when he submitted a flagrantly deficient abstract to the Arkansas Court of Appeals and took no action to correct his deficiency. Model Rule 8.4(d) provides that it is professional misconduct for a lawyer to 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 Timothy Alan Ginn, Arkansas Bar ID# 93108, be, and hereby is, CAUTIONED for his conduct in this matter.

By: _____

Win A. Trafford, Chair, Panel A

Date: _____