

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT

IN RE: DAVID MARK GUNTER

ARKANSAS BAR ID #94004

CPC DOCKET No. 2001-041

**FINDINGS AND ORDER**

The formal charges of misconduct arose from the Arkansas Supreme Court case of James Andrew Taylor v. State of Arkansas, CR 2001-215. David Mark Gunter, an attorney practicing law in Hope, Arkansas, represented James Andrew Taylor in a criminal matter. On February 20, 2001, Gunter filed a Motion for Rule on the Clerk. In the Motion for Rule on the Clerk, Gunter stated that a notice of appeal was timely filed; that the record was being tendered late; and that he accepted full responsibility for the late tendering. The Arkansas Supreme Court granted the Motion for Rule on the Clerk on March 15, 2001 in a Per Curiam Order. In addition, the Court referred the matter to the Committee on Professional Conduct.

Mr. Gunter was served with the formal complaint on April 24, 2001, by certified mail, restricted delivery. A response to the Complaint was due to be filed on or before April 14, 2001. No response was received. Pursuant to Section 5I(4) of the Procedures, failure to timely respond constitutes an admission of the factual allegations of the complaint and extinguishes the right to a *de novo* hearing.

Upon consideration of the formal complaint, the failure to respond, and the Arkansas Model Rules of Professional Conduct, the Committee on Professional Conduct finds:

1. That Mr. Gunter's conduct violated Model Rule 1.3 when he failed to undertake the necessary steps to obtain an Order extending the time to file the record on appeal beyond the initial ninety (90) day limit and when he failed to file in a timely manner with the Arkansas Supreme Court the record of the lower court proceedings on behalf of James Andrew Taylor, his client. Model Rule 1.3 requires that a lawyer act with reasonable diligence and promptness in representing a client.
2. That Mr. Gunter's conduct violated Model Rule 8.4(d) when his failure to file in a timely manner the record with the Supreme Court resulted in a delay in the orderly and timely resolution of appellate proceedings and his failure to timely file his client's record required the Court to expend additional time and effort which 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 that DAVID MARK GUNTER, Arkansas Bar ID No. 94004, be, and hereby is, CAUTIONED for his conduct in this matter.

ARKANSAS SUPREME COURT COMMITTEE

ON PROFESSIONAL CONDUCT

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

Bart Virden

Chairman

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