

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

IN RE: DAVID MARK GUNTER, Respondent

Arkansas Bar ID#94004

CPC Docket No. 2002-098

FINDINGS AND CONSENT ORDER OF DISCIPLINE

The formal charges of misconduct upon which this Consent Order is premised, involving respondent attorney David Mark Gunter of Hope, Hempstead County, Arkansas, arose from a referral by Per Curiam Contempt Orders of Arkansas Supreme Court filed July 5 and October 24, 2002, in Jerry Edmonds v. State of Arkansas, No. CR 2001-1050.

Following Respondent Attorney's receipt of the formal complaint, the attorney entered into discussion with the Executive Director which has resulted in an agreement to discipline by consent pursuant to Section 20.B of the Arkansas Supreme Court Procedures Regulating Professional Conduct of Attorneys at Law (2002). Upon consideration of the formal complaint and attached exhibits, admissions made by the respondent attorney, the terms of the written consent, the approval of Panel C of the Committee on Professional Conduct, and the Arkansas Model Rules of Professional Conduct, the Committee on Professional Conduct finds:

1. 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 he failed to file in a timely manner with the Arkansas Supreme Court the record of the lower court proceedings on behalf of his client Jerry Edmonds. Model Rule 1.3, requires that a lawyer act with reasonable diligence and promptness in representing a client.
2. Mr. Gunter's conduct violated Model Rule 3.4(c) when, knowing the Rule 16 of the Rules of Appellate Procedure-Criminal provide that trial counsel, whether retained or court appointed, shall continue to represent a convicted defendant throughout any appeal, unless permitted by the trial court or the appellate court to withdraw in the interest of justice or for other sufficient cause, he failed to timely pursue the appeal of his client Jerry Edmonds. Model Rule 3.4(c) requires that a lawyer not knowingly disobey an obligation under the ruled of a tribunal except for an open refusal based on an assertion that no valid obligation exists.
3. Mr. Gunter's conduct violated Model Ruled 8.4(d) when his failure to file the record with the Supreme Court in a timely manner resulted in a delay in the orderly and timely resolution of appellate proceeding and his failure to timely file his client's record with the Supreme Court required the Court to expend additional time and effort which would not have been necessary otherwise. Model 8.4(d) requires that a lawyer not engage in conduct that is prejudicial to the administration of justice.

WHEREFORE, in accordance with the consent to discipline presented by Mr. Gunter and the Executive Director, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct that respondent David Mark Gunter, Arkansas Bar No. 94004, be, and hereby is, REPRIMANDED for his conduct in this matter, and ordered to pay costs of \$50.00 within thirty (30) days of filing of this order.

ARKANSAS SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT - PANEL C

By: _____

David Newbern, Panel C Chairperson

Date: _____

