

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT
PANEL B

IN RE: DON G. GILLASPIE

ARKANSAS BAR No. 61010

CPC DOCKET NO. 2004-027

CONSENT FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee by the Honorable Jim Hudson, Miller County Circuit Court Judge. The information related to the representation of Lethia Nard in the case of State of Arkansas v. Lethia Nard, Miller County Circuit Court Case No. 2003-090-2.

Don G. Gillaspie, Attorney at Law, El Dorado, Arkansas, represented Lethia Nard in a criminal matter. A hearing was scheduled for July 31, 2003. Gillaspie and his client appeared in Miller County Circuit Court on July 31, 2003 and the Court granted Gillaspie's Motion for Continuance. Trial was then set for December 8, 2003. An Order reflecting the granting of the motion for continuance was entered on August 1, 2003. The Order set jury trial for December 8, 2003, and a pre-trial hearing for December 2, 2003.

On December 2, 2003, Ms. Nard appeared as directed by the Court. Gillaspie failed to appear. Judge Hudson issued a body attachment for the apprehension of Gilaspie.

On December 8, 2003, the Court convened for the scheduled jury trial. Ms. Nard appeared as directed by the Court. Gillaspie again failed to appear. The Court continued the matter to January 7, 2004.

On January 7, 2004, the Court convened for the scheduled jury trial. Gillaspie appeared. Gillaspie was found by Judge Hudson to be in contempt of court and fined \$100.00. Judge Hudson thereafter referred the matter to the Office of Professional Conduct.

Gillaspie admitted that he failed to appear in Judge Hudson's court on December 2, 2003, and December 8, 2003, and that he had been found in contempt of court by Judge Hudson. Gillaspie offered that he had met with the Deputy Prosecuting Attorney for Miller County and had discussed the case with him.

According to Gillaspie, the Deputy Prosecuting Attorney was awaiting a crime lab report and that he informed Gillaspie that he intended to nolle pros the case.

Gillaspie admitted that he failed to place the dates for pretrial and the trial on his calendar when he returned to his office in El Dorado. Gillaspie stated that he usually received from Judge Hudson's case coordinator a docket containing a list of each case that would be considered that week. However, Gillaspie stated that his "land-line" telephone service had been disconnected and he was unable to receive the fax.

Gillaspie stated that he had a clear obligation to appear in accord with the Order of Continuance and that his conduct violated the Model Rules.

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

1. That Mr. Gillaspie's conduct violated Model Rule 3.4(c) in that he failed to appear before the Miller County Circuit Court on December 2, 2003, for a pre-trial hearing in the case of State of Arkansas v. Lethia Nard, Miller County Circuit Court Case No. 2003-090-2, and failed to appear before the Miller County Circuit Court on December 8, 2003, for a jury trial in the case of State of Arkansas v. Lethia Nard, Miller County Circuit Court Case No. 2003-090-2, his appearance at both hearings were required by an Order entered on August 1, 2003. Model Rule 3.4(c) requires, in pertinent part, that a lawyer shall not knowingly disobey an obligation under the rules of the tribunal.

2. That Mr. Gillaspie's conduct violated Model Rule 8.4(d) in that his failure to appear at a pre-trial hearing on December 2, 2003, and at a jury trial scheduled on December 8, 2003, resulted in delay in the orderly administration of criminal proceedings, and that he was found to be in contempt of court on January 7, 2003, for his conduct on December 2, 2003, and December 8, 2003. 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 B, that DON GILLASPIE, Arkansas Bar ID# 61010, be, and

hereby is, REPRIMANDED for his conduct in this matter; fined the sum of Five Hundred (\$500.00) Dollars and assessed costs in the amount of Fifty (\$50.00) Dollars. The fine and 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 B

By: _____

J. Michael Cogbill, Chairman, Panel B

Date:
