

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT

PANEL B

IN RE: DON G. GILLASPIE

ARKANSAS BAR No. 61010

CPC Docket No. 2004-168

FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee. The information related to the representation of Stanley Herring.

Don G. Gillaspie, Attorney at Law, El Dorado, Arkansas, represented Stanley Herring in Jefferson County Circuit Court. Mr. Herring was found guilty of criminal conspiracy to manufacture a controlled substance and simultaneous possession of drugs and a firearm. Mr. Gillaspie filed a timely notice of appeal and a briefing schedule was issued by the Arkansas Supreme Court Clerk. Mr. Gillaspie filed six Motions for Extension of Time to File Brief and Abstract covering the period of time from October 26, 2003, to January 10, 2004. Mr. Gillaspie failed to file an appeal on or before January 10, 2004.

On February 6, 2004, the Arkansas Attorney General filed a Motion to Dismiss. In the motion, the Attorney General stated that neither a brief nor a motion for extension of time had been filed prior to January 10, 2004. Mr. Gillaspie filed a response to the Motion to Dismiss on February 27 and requested additional time to file the brief. The Arkansas Court of Appeals denied the motion of the Attorney General and granted the request for additional time to file the brief. The brief was then due on April 2, 2004.

On July 9, 2004, the Arkansas Attorney General filed a Motion to Dismiss. In the motion, the Attorney General stated that no brief was filed on or before April 2, 2004. The Arkansas Court of Appeals granted the Motion on August 25, 2004 and the appeal was dismissed.

Mr. Gillaspie was served with a Formal Complaint prepared by the Office of Professional Conduct and filed a timely response. Mr. Gillaspie stated that during the period of time he was representing Stanley Herring, Mr. Gillaspie was subjected to mental and physical exhaustion from extreme mental and emotional pressure.

Panel B of the Committee on Professional Conduct directed Mr. Gillaspie to submit to an independent medical examination. Mr. Gillaspie submitted to a medical examination and results of the medical examination was provided to members of the Panel. The information was then taken into consideration pursuant to Section 19M of the Procedures.

Upon consideration of the formal complaint and attached exhibit materials, the response thereto, the factors under Section 19 of the Procedures, 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. Don G. Gillaspie violated Model Rule 1.3 when he failed to file in a timely manner with the Arkansas Court of Appeals, a brief on behalf of Stanley Herring, his client. Model Rule 1.3 requires that a lawyer act with reasonable diligence and promptness in representing a client.

2. Don G. Gillaspie violated Model Rule 8.4(d) when he failed to file with the Arkansas Court of Appeals a brief on behalf of his client, Stanley Herring, resulting in a delay in the orderly and timely resolution of appellate proceedings; additional time and effort of the Court and its staff which would not have been necessary otherwise; and, preventing his client from having his appeal heard by the Arkansas Court of Appeals. 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 G. GILLASPIE, Arkansas Bar ID# 61010, be, and hereby is, REPRIMANDED for his conduct in this matter and assessed costs in the amount of FIFTY DOLLARS (\$50.00). In addition to the REPRIMAND, Mr. Gillaspie is placed on period of SUPERVISED PROBATION for a period of ONE YEAR from the date of the filing of this Findings and Order. During the period of Supervised Probation, Mr. Gillaspie shall, within thirty days of the date of this Findings and Order, submit the name of an attorney , acceptable to the Office of Professional Conduct, who assents to supervise, monitor and assist Mr. Gillaspie, as required of the conditions of probation. Willful or unjustified non-compliance with the conditions of probation will subject the matter to further proceedings. The 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 of the filing of this Findings and Order with the Clerk of the Arkansas Supreme Court.

ARKANSAS SUPREME COURT COMMITTEE ON
PROFESSIONAL CONDUCT - PANEL B

By: _____

J. Michael Cogbill, Panel B Chairman

Date: _____