

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

IN RE: J. RUSSELL GREEN, Respondent  
Arkansas Bar ID#73043  
CPC Docket No. 2003-146

**CONSENT FINDINGS AND ORDER**

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee through the Orders of the Arkansas Supreme Court in the matter of *Johnny Dean Johnson v. State of Arkansas*, CR03-00487. The information related to the representation of Johnny Dean Johnson by Respondent in 2003.

On or about October 9, 2003, Respondent was served with a formal complaint, supported by the Orders of the Arkansas Supreme Court in the appellate matter of Johnny Dean Johnson. A response was filed. The Respondent and the Executive Director negotiated a discipline by consent proposal, which was submitted to this Panel.

The information presented to the Panel reflected that on May 1, 2003, the Clerk of the Arkansas Supreme Court received the three (3) volumes of the record in Mr. Johnson's appeal. The record was received in a timely fashion. J. Russell Green, an attorney practicing primarily in Heber Springs, Arkansas, represented Mr. Johnson in the lower court matter. Mr. Green filed the Notice of Appeal for Mr. Johnson and tendered the record on appeal.

On the same date that Mr. Green tendered the record, he filed a Motion to be allowed to withdraw from representing Mr. Johnson because he had a private practice in addition to his public defender appointments. Mr. Green also explained that requiring him to represent Mr. Johnson on appeal would work an undue financial hardship on him. On May 22, 2003, the Arkansas Supreme Court denied Mr. Green's Motion. The notice of the denial was mailed to Mr. Green's address of record on file with the Arkansas Supreme Court Cler's office. Despite being notified of the denial, Mr. Green took no action to file Mr. Johnson's brief nor did he seek to

obtain an extension to do so. Mr. Green merely ignored the Court's decision.

An attorney for the Office of the Attorney General, counsel for the State of Arkansas, filed a Motion to Dismiss Mr. Johnson's appeal on July 7, 2003. Mr. Green did not respond to the Motion. On September 4, 2003, the Court considered the Motion and dismissed the appeal. After being served with the formal disciplinary complaint in this matter, Mr. Green filed a Motion to Reinstate the Appeal which was ultimately granted by the Arkansas Supreme Court.

Upon consideration of the formal complaint and attached exhibit materials, the response, the consent proposal, 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. Green's conduct violated Model Rule 1.1 because he was not thorough enough in his representation of Mr. Johnson to file a brief on his behalf following the denial of his Motion to Withdraw and because he was not thorough enough in his representation of Mr. Johnson to respond to the Motion to Dismiss appeal filed by the Attorney General or to take any steps to preserve Mr. Johnson's appeal prior to its dismissal on September 4, 2003. Model Rule 1.1 requires that a lawyer provide competent representation to a client, including the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.
2. That Mr. Green's conduct violated Model Rule 1.2(a) because despite the fact that his client, Johnny Dean Johnson, wished to pursue an appeal of the lower court's decision out of Stone County Circuit Court wherein he was convicted of murder and arson and sentenced to life plus twenty (20) years, he failed to comply with all the procedural rules to pursue such an appeal and allowed Mr. Johnson's appeal to be dismissed by the Arkansas Supreme Court. Model Rule 1.2(a) requires that a lawyer abide by a client's decisions concerning the objectives of representation, subject to paragraphs (c), (d), and (e), and consult with the client as to the means by which they are to be pursued.

3. That Mr. Green's conduct violated Model Rule 1.3 when he failed to file a brief for Mr. Johnson by June 10, 2003, following the denial of his Motion to Withdraw; when he failed to take any action to obtain an extension of time to file the brief on appeal for Mr. Johnson when he did not file a brief for him on or before June 10, 2003; and, when he failed to respond to the Motion to Dismiss filed by the State of Arkansas in the matter involving Mr. Johnson's appeal. Model Rule 1.3 requires that a lawyer act with reasonable diligence and promptness in representing a client.
4. That Mr. Green's conduct violated Model Rule 3.4(c) when he failed to file a brief on behalf of Mr. Johnson despite the fact that he continued to be Mr. Johnson's attorney of record when the Arkansas Supreme Court denied his Motion to Withdraw in the appellate matter. Model Rule 3.4(c) requires that a lawyer not knowingly disobey an obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists.

WHEREFORE, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct, acting through its authorized Panel B, that J. RUSSELL GREEN, Arkansas Bar ID# 73043, be, and hereby is, REPRIMANDED for his conduct in this matter. Further, pursuant to Section 17.E (7) of the Procedures of the Arkansas Supreme Court Regulating Professional Conduct of Attorneys at Law, Mr. Green has consented to be placed on probation for a period of twelve (12) months. Separate conditions of probation and supervising attorney's agreement have been executed and not made a part of this public record. In addition, Mr. Green is assessed the costs of this proceeding in the amount of \$50. 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 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, Chair, Panel B

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

(13.M, Rev.1-1-02)