

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT
PANEL B

IN RE: DUSTIN DANIEL DYER
ARKANSAS BAR ID No. 2003082
CPC Docket No. 2011-037

FILED

NOV 28 2011

**LESLIE W. STEEN
CLERK**

FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from information provided in a grievance filed by Richard L. Spickard. The conduct related to representation of Mr. Spickard in a post-conviction criminal matter.

Dustin Daniel Dyer is an attorney licensed to practice law in the State of Arkansas and practices law in Benton, Arkansas. Mr. Spickard employed Mr. Dyer in August 2009, and paid Mr. Dyer the sum of Seven Hundred Fifty Dollars (\$750.00). Mr. Spickard then provided Mr. Dyer with supporting documentation for a pardon application.

In November 2009, Mr. Spickard inquired of the status of the pardon application and was told by Mr. Dyer that he would have his secretary get the application typed up and mailed. In December 2009, Mr. Spickard went to Mr. Dyer's office again where he met with Mr. Dyer and was told that there were no pardons being given at that time.

At a later date, Mr. Spickard went to Mr. Dyer's office after he had read an article in the newspaper about pardons being given. Mr. Spickard and Mr. Dyer met and discussed the matter. According to Mr. Spickard, Mr. Dyer stated that he would get his secretary to fill out the paperwork and would call Mr. Spickard in three or four days. Mr. Dyer never called. According to Mr. Dyer, Mr. Spickard brought the newspaper article to his attention and requested that the matter be put on hold. It was Mr. Spickard who determined that the timing was not right to

request a pardon.

In February 2010, Mr. Spickard called Mr. Dyer's office and spoke with his secretary. Mr. Spickard informed the secretary that he would like to have his paperwork returned and his money refunded. Mr. Dyer admitted that Mr. Spickard called and requested the return of his money and his paperwork. Mr. Spickard received neither his paperwork nor his money from Mr. Dyer. Mr. Dyer stated that the funds received from Mr. Spickard had been expended in preparing the pardon application, researching a question Mr. Spickard had about the restoration of his right to vote, and the time in office meetings to discuss the pardon application process. Mr. Dyer stated that he informed Mr. Spickard that he was not entitled to a refund as the work had already been done.

Mr. Spickard filed a grievance with the Office of Professional Conduct on May 28, 2010. On August 26, 2010, the Office of Professional Conduct sent a letter to Mr. Dyer asking that he state what had transpired in the matter, what action was taken on Mr. Spickard's behalf, and whether there were any advanced, unearned fees which should have been returned to Mr. Spickard. The information was requested to be filed with the Office of Professional Conduct on or before September 10, 2010. No response was received from Mr. Dyer by the Office of Professional Conduct on or before September 10, 2010. Mr. Dyer stated Mr. Spickard knew at the time the Office of Professional Conduct contacted him that he was not entitled to a refund and there were no documents which belonged to Mr. Spickard. Further, Mr. Dyer stated, never did anyone simply request a copy of the client's file. According to Mr. Dyer, the letters from the Office of Professional Conduct demanded a full refund for Mr. Spickard and his paperwork, and not the surrender of papers which belonged to Mr. Spickard. It was Mr. Dyer's belief that the

only paperwork requested was the pardon application which was ready to be filed and that Mr. Spickard wanted the completed application without having to pay for it.

On October 19, 2010, the Office of Professional Conduct sent a second letter to Mr. Dyer asking that he provide the information requested in the August 26, 2010, letter on or before November 5, 2010. No response was received from Mr. Dyer by the Office of Professional Conduct on or before November 5, 2010.

Upon consideration of the formal complaint and attached exhibit materials, the response to the formal complaint and attached exhibit materials, and the Arkansas Rules of Professional Conduct, Panel B of the Arkansas Supreme Court Committee on Professional Conduct finds:

1. Dustin Daniel Dyer violated Rule 1.3 when he failed to act on his client's behalf from the date of employment, August 12, 2009, through February 2010. Rule 1.3 requires that a lawyer act with reasonable diligence and promptness in representing a client.

2. Dustin Daniel Dyer violated Rule 1.4(a)(3) when he failed to keep his client, Richard L. Spickard, informed about the status of his application for pardon. Rule 1.4(a)(3) requires that a lawyer keep the client reasonably informed about the status of the matter.

3. Dustin Daniel Dyer violated Rule 1.4(a)(4) when he failed to promptly return the file of his client, Richard Spickard, after being requested to do so. Rule 1.4(a)(4) requires that a lawyer promptly comply with reasonable requests for information.

4. Dustin Daniel Dyer violated Rule 1.16(d) when, following the termination of representation by his client, Richard Spickard, in February 2010, he failed to surrender to his client documents which belonged to Mr. Spickard, and when he failed to return to his client, Mr. Spickard, any advance payment of fee or expense that had not been earned or incurred. Rule

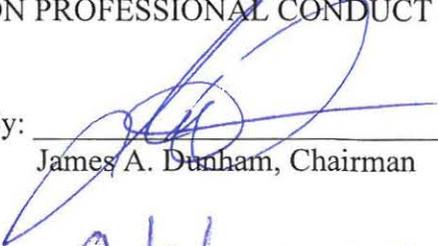
1.16(d) requires that upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee or expense that has not been earned or incurred. The lawyer may retain papers relating to the client to the extent permitted by law.

5. Dustin Daniel Dyer violated Rule 8.1(b) when the Office of Professional Conduct requested in a letter dated August 26, 2010, that he provide information concerning his interaction with his client, Richard L. Spickard, and he failed to provide the requested information, and when the Office of Professional Conduct reminded Dustin Daniel Dyer by letter dated October 19, 2010, to provide information requested in the August 26, 2010, letter and he failed to provide the information. 8.1(b) requires, in part, that a lawyer in connection with a disciplinary matter shall not knowingly fail to respond to a lawful demand from information from a disciplinary authority

WHEREFORE, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct, acting through its authorized Panel B, that DUSTIN DANIEL DYER, Arkansas Bar No. 2003082, be, and hereby is, CAUTIONED, fined the sum of ONE THOUSAND DOLLARS (\$1,000.00); assessed costs in the amount of FIFTY DOLLARS (\$50.00); and, ordered to pay restitution in the amount of SEVEN HUNDRED FIFTY DOLLARS (\$750.00) for his conduct in this matter. The Panel expressly found that the sanction was enhanced pursuant to Section 19.A(12) of the Procedures Regulating Professional Conduct (2011). All fines, costs, and restitution assessed herein, totaling ONE THOUSAND EIGHT-

HUNDRED DOLLARS (\$1,800.00) 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: 
James A. Dunham, Chairman

Date: October 27, 2011