

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT

PANEL A

IN RE: DONALD E. WARREN, SR.

ARKANSAS BAR ID #99007

CPC Docket No. 2005-093

FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from the representation of Mario Clark by Donald E. Warren, Sr., Attorney at Law, Pine Bluff, Arkansas.

Donald E. Warren, Sr., represented Mario Clark on appeal from Jefferson County Circuit Court on a conviction of criminal attempt to commit capital murder, battery in the first degree, aggravated robbery, and theft by receiving. On June 30, 2004, the Arkansas Court of Appeals ordered Warren to file a brief which complied with Arkansas Supreme Court Rule 4-3(j)(1). The brief was to be filed on or before July 15, 2004. On July 13, 2004, Mr. Warren filed a Motion for Additional Time to file the brief. The motion was granted and the brief was then due to be filed on or before October 13, 2004.

Warren tendered a brief to the Arkansas Supreme Court Clerk on October 13, 2004, but the brief was rejected as there were no references to the abstract and/or addendum in the statement of the case and argument and the pages were not numbered correctly. The brief was then due to be filed on or before October 20, 2004.

On October 19, 2004, Warren tendered to the Arkansas Supreme Court a brief which was again rejected by the Arkansas Supreme Court Clerk as there were again no references to the abstract and/or addendum in the statement of the case or argument and the pages were still numbered incorrectly.

Warren tendered a brief to the Arkansas Supreme Court Clerk on November 1, 2004, but the brief was untimely. Warren filed a Motion to File Belated Brief on November 5, 2004. The Arkansas Court of Appeals granted the motion on November 17, 2004.

On November 24, 2004, Warren filed a Motion to Withdraw pursuant to *Anders v. California*, 386 U.S. 738 (1967). The Arkansas Court of Appeals granted the motion in an order dated May 4, 2005, wherein the

court stated that the substandard work caused it concern and that further efforts to direct Warren to file a brief that complies with Rule 4-3(j)(1) would be of no avail. The court then appointed other counsel and referred the matter to the Office of Professional Conduct.

Warren admitted to the allegations in a response to the Complaint filed by the Office of Professional Conduct.

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

1. DONALD E. WARREN, SR., violated Model Rule 1.1 when he failed to demonstrate the requisite legal knowledge to properly pursue the appeal on behalf of his client, Mario Clark, in the case of *Clark v. State*, Arkansas Court of Appeals Case No. CACR 2002-0975. Model Rule 1.1 requires that a lawyer provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

2. DONALD E. WARREN, SR., violated Model Rule 1.3 when he failed to file a corrected brief with the Arkansas Supreme Court Clerk on or before October 20, 2004. Model Rule 1.3 requires that a lawyer act with reasonable diligence and promptness in representing a client.

3. DONALD E. WARREN, SR., violated Model Rule 3.4(c) when he was directed to file a brief in compliance with Arkansas Supreme Court Rule 4-3(j)(1) listing adverse rulings and why the adverse rulings would not be meritorious grounds for reversal on appeal, but failed to do so. Model Rule 3.4(c) requires, in pertinent part, that a lawyer not knowingly disobey an obligation under the rules of a tribunal.

4. DONALD E. WARREN, SR., violated Model Rule 8.4(d) when he failed to file a brief in compliance with Arkansas Supreme Court Rule 4-3(j)(1) which resulted in a delay in the orderly and timely resolution of appellate proceedings and when he failed to file a brief in compliance with Arkansas Supreme Court Rule 4-3(j)(1) which required the Court to expend additional time and effort which would not have been necessary otherwise. 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 A, that DONALD E. WARREN, SR., Arkansas Bar ID No. 99007, be, and hereby is, REPRIMANDED and assessed costs in the amount of FIFTY DOLLARS (\$50.00) for his conduct in this matter. 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 A

By: _____

Bart Virden, Chair, Panel A

Date: _____