

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

IN RE: **ANDREW L. CLARK**, Respondent
Arkansas Bar ID#73018
CPC Docket No. 2013-002

CONSENT FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from a referral to the Committee by the Arkansas Supreme Court by Per Curiam. The information related to the representation of William J. Sellers by Respondent.

Mr. Clark filed his Motion for Rule on the Clerk on September 4, 2012, after failing to file a Notice of Appeal in Mr. Sellers' case in a timely manner. The Sentencing Order in the trial court was filed on April 13, 2012. Mr. Clark did not file the Notice of Appeal in Mr. Sellers' criminal case until June 7, 2012. Mr. Clark failed to check with the prosecutor on the case or the circuit clerk's office to see if the Sentencing Order in the case had been filed. Mr. Clark instead erroneously relied upon the assumption that he would receive a copy of the Sentencing Order from the prosecutor. Mr. Clark also failed to communicate with his client, Mr. Sellers, in a timely manner as to inquire as to whether Mr. Sellers wished to pursue appeal of this state court conviction.

On September 20, 2012, the Arkansas Supreme Court granted Mr. Clark's Motion, however, it treated the Motion as one for belated appeal, in accordance with *McDonald v. State*, 356 Ark. 106, 146 S.W.3rd 883 (2004).

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

1. That Mr. Clark's conduct violated Rule 1.3 because he failed to file a timely Notice of

Appeal of the trial court's disposition on behalf of his client, William Sellers. Arkansas Rule 1.3 requires that a lawyer act with reasonable diligence and promptness in representing a client.

2. That Mr. Clark's conduct violated Rule 1.4(a)(1) because he failed to communicate with his client, Mr. Sellers, in a timely manner as to inquire as to whether Mr. Sellers wished to pursue appeal of this state court conviction. Arkansas Rule 1.4(a)(1) states that a lawyer shall promptly inform the client of any decision or circumstance with respect to which the client's informed consent, as defined by Rule 1.0(e), is required.

3. That Mr. Clark's conduct violated Rule 8.4(d) because of (a) his failure to timely file the Notice of Appeal in the Circuit Court proceedings to the Arkansas Court of Appeals resulted in a delay in the orderly and timely resolution of appellate proceedings; and (b) his failure to timely file the Notice of Appeal in the Circuit Court proceedings to the Arkansas Court of Appeals required the Court to expend additional time and effort which would not have been necessary otherwise. Arkansas 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 **ANDREW L. CLARK**, Arkansas Bar ID# 73018, be and hereby is, **REPRIMANDED** for his conduct in this matter. Pursuant to Section 18.A of the Procedures of the Arkansas Supreme Court Regulating Professional Conduct of Attorneys at Law, Mr. Clark is assessed the costs of this proceeding in the amount of FIFTY DOLLARS (\$50.00). The costs assessed ordered herein, totaling FIFTY DOLLARS (\$50.00), 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 Consent 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: Stephen R. Crane, Vice Chair, Panel B

Date: April 23, 2013

Original filed with the Arkansas Supreme Court on
April 24, 2013.