

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

IN RE:       **JACK R. KEARNEY**  
              ARKANSAS BAR ID #77194  
              CPC Docket No. 2015-012

**FINDINGS AND ORDER**

The formal charges of misconduct upon which this Findings and Order is based arose as a result of Mr. Kearney's representation of the Appellant Abigail Adams Ransom in the matter of *Abigail Adams Ransom and Owen Damar Harvey vs. Arkansas Dept. Of Human Services*, CV-14-1013.

1. On October 10, 2014, Mr. Kearney entered his appearance on behalf of Ms. Ransom in the termination proceeding held in Pulaski County Circuit Court to supplement the record in the lower court case. The trial court denied his request.

2. On October 23, 2014, the Pulaski County Circuit Court issued an order terminating Ms. Ransom's parental rights to her minor child. No timely notice of appeal was filed.

3. On November 25, 2014, Ms. Ransom filed a pro se Motion to File Belated Appeal. Ms. Ransom alleged in her motion that she was never notified by Mr. Kearney of the termination of her parental rights.

4. On December 11, 2014, the Supreme Court issued its Formal Order denying Ms. Ransom's motion without prejudice and remanding the matter back to the trial court for determination of attorney fault.

5. On December 19, 2014, the trial court held its determination hearing, and entered its Order Determining Attorney Fault. The trial court found that Mr. Kearney had petitioned the court to be relieved as attorney of record for Ms. Ransom and that request was denied. Mr. Kearney was the attorney of record for Ms. Ransom as of October 23, 2014.

6. The trial court found that Mr. Kearney was notified of the substitution of counsel and entry of the order terminating Ms. Ransom's parental rights by email from the court staff on October 23, 2014. Mr. Kearney admitted to receiving the email. Mr. Kearney states that he was entering an appearance on behalf of the mother for the limited purpose of supplementing the record, however, the trial court found that his substitution was not predicated on the court's allowing additional testimony or information. In fact, the court was not aware that Mr. Kearney did not wish to represent Ms. Ransom until Mr. Kearney filed a Motion to Be Relieved after close of business on November 12, 2014. The trial court also found Mr. Kearney's motion deficient in notification to Ms. Ransom as she was not listed on the certificate of service accompanying the motion, and there was nothing from Ms. Ransom indicating she agreed with the motion.

7. The trial court ruled that Mr. Kearney received timely notice that he had been substituted as attorney for Ms. Ransom, that the substitution was unconditional and equivocal, and that Mr. Kearney had received timely notice of the termination of Ms. Ransom's parental rights. Mr. Kearney was found responsible, as attorney of record, to notify his client of the termination of her parental rights and to file a Notice of Appeal on her behalf. The Order Determining Attorney Fault was filed with the Supreme Court Clerk.

8. On January 6, 2015, Mr. Kearney filed a Motion to be Relieved as Attorney of Record on Appeal; to Determine Indigency Status of Appellant and to Appoint Appellate Counsel for Appellant.

9. On January 22, 2015, the Supreme Court issued its Per Curiam accepting the trial court's finding that Mr. Kearney was at fault for not filing a timely Notice of Appeal and granted Ms. Ransom's Motion to File Belated Appeal. Mr. Kearney was relieved as counsel for Ms. Ransom, and the Arkansas Public Defender Commission was appointed to represent her. A copy

of the Per Curiam was then forwarded to the Committee on Professional Conduct.

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

1. Mr. Kearney's conduct violated Arkansas Rule 1.3 when (a) he failed to notify his client, Ms. Ransom, in a timely manner that her parental rights had been terminated and (b) he failed to file a timely file a Notice of Appeal, on behalf of his client, Ms. Ransom. Arkansas Rule 1.3 requires that a lawyer act with reasonable diligence and promptness in representing a client.

2. Mr. Kearney's conduct violated Arkansas Rule 1.4(a)(3) when (a) he failed to notify his client, Ms. Ransom, that her parental rights had been terminated and (b) he failed to notify his client, Ms. Ransom, that he filed a motion to be relieved as her counsel of record. Arkansas Rule 1.4(a)(3) states that a lawyer shall keep the client reasonably informed about the status of the matter.

3. Mr. Kearney's conduct violated Arkansas Rule 8.4(d) when (a) his failure to timely file the Notice of Appeal the Appellate Court resulted in a delay in the orderly and timely resolution of appellate proceedings and (b) his failure to timely file the Notice of Appeal with the Appellate Court required both the trial court and the Appellate 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 A, that **JACK R. KEARNEY**, Arkansas Bar ID #77194, be, and hereby is, **CAUTIONED** for his conduct in this matter. Jack R. Kearney shall also pay costs in the amount of \$50.00 in accordance with Section 18.A. of the Procedures. 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:/s/ Michael W. Boyd, Chair, Panel A

Date: May 20, 2015

Original filed with the Arkansas Supreme Court on  
June 22, 2015.