

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

IN RE: **EVERETT O. MARTINDALE**
 ARKANSAS BAR ID #74100
 CPC Docket No. 2016-033

CONSENT FINDINGS AND ORDER

The formal charges of misconduct upon which this Consent Findings and Order is based arose from Mr. Martindale’s representation of the Appellant in the matter of James Alan Walker v. Glenna Walker, CV15-356. Mr. Everett O. Martindale is an Arkansas licensed attorney practicing primarily in Pulaski County, Arkansas. Following Mr. Martindale’s receipt of the formal complaint, Mr. Martindale entered into discussion with the Executive Director which resulted in an agreement by consent pursuant to Section 20.B of the Arkansas Supreme Court Procedures Regulating Professional Conduct of Attorneys at Law (2011).

1. Martindale represented Walker at the trial court level in his divorce action.
2. After a hearing, the trial court terminated Walker’s payment of alimony to his ex-wife, modified his child support, and awarded the ex-wife real property in lieu of the alimony finding that Walker had purposefully wasted the martial assets.
3. On December 11, 2014, Martindale filed a Notice of Appeal and Designation of Record on behalf of Walker.
4. On January 30, 2015, Martindale filed an Amended Notice of Appeal and Designation of Record.
5. Pursuant to Arkansas Rules of Appellate Procedure Rule 5(a), the record was due to be filed with the Supreme Court Clerk ninety (90) days from the filing of the first Notice of Appeal, which was March 11, 2015.

6. On March 11, 2015, Martindale filed a Motion for Extension of Time to file Appeal as the court reporter needed more time to prepare the record.

7. On March 11, 2015, the court entered its Order granting the extension an additional thirty (30) days. This put the record to due to be filed with the Supreme Court Clerk on or by Friday, April 10, 2015.

8. On Monday, April 13, 2015, Martindale tendered the record to the Arkansas Supreme Court Clerk. The record was not lodged with the clerk as it was not timely filed.

9. On April 22, 2015, Martindale filed a Motion for Rule on the Clerk. In his Motion, Martindale states that he miscalculated the filing date.

10. On May 14, 2015, the Arkansas Supreme Court entered its Formal Order denying the Motion for Rule on the Clerk. The case was then closed.

11. Appellant Walker still owed Martindale fees from his trial court representation, and fees for the appeal, however, Martindale agreed not to pursue those fees from Walker.

Upon consideration of the formal complaint and attached exhibit materials, admissions made by the respondent attorney, the terms of the written consent, the approval of Panel A of the Committee on Professional Conduct, and the Arkansas Rules of Professional Conduct, the Committee on Professional Conduct finds:

1. That Martindale's conduct violated Rule 8.4(d) when his failure to timely file the record with the Appellate Court resulted in a delay in the orderly and timely resolution of appellate proceedings, required the Appellate Court to expend additional time and effort which would not have been necessary otherwise, and ultimately resulted in a dismissal of Walker's appeal.

WHEREFORE, in accordance with the consent to discipline presented by Mr. Martindale and the Executive Director, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct, acting through its authorized Panel A, that Everett O. Martindale, Arkansas Bar ID#74100, be and hereby is, **CAUTIONED** for his conduct in this matter, and he agrees to and is ordered to pay \$50.00 case costs. The costs of 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 Consent 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, 2016

Original filed with the Arkansas Supreme Court
Clerk on May 20, 2016.