

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

**PANEL B**

IN RE:           RICHARD W. ATKINSON, Respondent  
                  Arkansas Bar ID#88066  
                  CPC Docket No. 2005-064

**CONSENT FINDINGS AND ORDER**

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee by Rita Sklar of the ACLU of Arkansas, in an Affidavit, dated February 23, 2005. The information related to the representation of Alicia Bennett by Respondent in 2002.

On April 27, 2005, Respondent was served with a formal complaint, supported by affidavits from Rita Sklar, Alicia Bennett, Bettina Brownstein and David R. Hogue. A response was filed. The Respondent and the Executive Director negotiated a discipline by consent proposal, which was submitted to this Panel.

The information before the Committee reflected that Richard Atkinson, an attorney practicing in Faulkner County, Arkansas, was appointed by Honorable Linda Collier to represent Alicia Bennett in legal proceedings involving her minor son, Justin. The Arkansas Department of Human Services petitioned to terminate Ms. Bennett's parental rights to her minor child. Seven (7) days after the Petition was filed, the presiding Court terminated Ms. Bennett's parental rights to Justin.

On August 29, 2002, the Court held a hearing, in which Mr. Atkinson was not present. The hearing was held as a result of a Pick-Up Order issued on August 27, 2002. During the hearing, Judge Collier learned that Ms. Bennett had tested positive for ingestion of an illegal drug. Based upon this fact, along with the fact that Ms. Bennett was pregnant, Judge Collier ordered Ms. Bennett incarcerated in the Faulkner County Jail for the duration of her pregnancy. It was also the Order of the Court that the Arkansas Department of Human Services take possession of the fetus. Ms. Bennett remained incarcerated until December 11, 2002. She was released on that date after the Arkansas Supreme Court ordered her immediately released. The ACLU had filed the Petition for Immediate Release with the Supreme Court.

According to the information provided to the Committee in the formal disciplinary complaint, from the time she was incarcerated until November 2002, when the ACLU of Arkansas first contacted Ms. Bennett, Mr. Atkinson did not respond to Ms. Bennett's efforts to speak with him about her incarceration. Attempts were made by Ms. Bennett and her family to reach Mr. Atkinson to discuss what steps were necessary to secure her release from incarceration. The Court records reflect that Mr. Atkinson did appear on Ms. Bennett's behalf with regard to a Motion to Set Aside Order which the Arkansas Department of Human Services had filed.

At one point immediately after Ms. Bennett was incarcerated, Mr. Atkinson advised that he would file a Petition for Habeas Corpus seeking her release but he did not do so. At no time did Mr. Atkinson seek to secure Ms. Bennett's release from the Faulkner County jail.

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

1. That Mr. Atkinson's conduct violated Model Rule 1.1 because he was not thorough enough in his representation of Ms. Bennett to seek her release from custody of the Faulkner County Jail even though he advised her he would do so. Model Rule 1.1 requires that a lawyer provide competent representation to a client, including the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.
2. That Mr. Atkinson's conduct violated Model Rule 1.2(a) because although he was aware of Ms. Bennett's desire to appeal the Order placing her in the custody of the Faulkner County Jail and despite the fact that he had not been relieved from his representation of Ms. Bennett, he failed to pursue an appeal of the Order on Ms. Bennett's behalf and because despite the fact that his client, Alicia Bennett, wished for him to seek her release from custody, an action he advised her he would take, he did not seek to secure her release from custody at any time between her incarceration and her release in December 2002. Model Rule 1.2(a) requires that a lawyer abide by a client's decisions concerning the objectives of representation, subject to paragraphs ( c), (d)

and (e), and requires that a lawyer consult with the client as to the means by which they are to be pursued.

3. That Mr. Atkinson's conduct violated Model Rule 1.3 when he failed to seek to secure Ms. Bennett's release from incarceration even though he indicated to her he would do so and when he did not pursue an appeal of the Order which placed Ms. Bennett in the custody of the Faulkner County Jail. Model Rule 1.3 requires that a lawyer act with reasonable diligence and promptness in representing a client.

WHEREFORE, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct, acting through its authorized Panel B, that RICHARD W. ATKINSON, Arkansas Bar ID#88066, be, and hereby is, CAUTIONED for his conduct in this matter. In addition, pursuant to Section 18.A. of the Procedures of the Arkansas Supreme Court Regulating Professional Conduct of Attorneys at Law (2002), Mr. Atkinson is assessed the cost of this proceeding in the amount of \$50. 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 B

By: \_\_\_\_\_

J. Michael Cogbill, Chair, Panel B

Date: \_\_\_\_\_