

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

**PANEL B**

IN RE:           B. DALE WEST, Respondent  
                  Arkansas Bar ID#89192  
                  CPC Docket No. 2005-056

**CONSENT FINDINGS AND ORDER**

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee through Orders of the Arkansas Supreme Court in the matter of *Steven R. Pinell v. State of Arkansas*, CR04-1240. The information related to the representation of Steven R. Pinell by Respondent in 2003 - 2005.

On April 11, 2005, Respondent was served with a formal complaint, supported by the Orders of the Arkansas Supreme Court. 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 B. Dale West, an attorney practicing primarily in Monticello, Arkansas, filed a Notice of Appeal on Steven Pinell's behalf on July 9, 2003. Thereafter, Mr. West did not take the appropriate steps to ensure that the appeal was perfected.

On November 16, 2004, Mr. Pinell filed a Motion for Belated Appeal with the Arkansas Supreme Court. After consideration of the Motion, the Court granted the relief requested and referred Mr. West's conduct to the Committee for action.

The record before the Supreme Court demonstrated that on June 9, 2003, an Amended Judgment was entered against Mr. Pinell for his criminal conviction. Mr. West represented Mr. Pinell, as retained counsel, in the re-sentencing. Mr. West did file a timely Notice of Appeal on July 9, 2003.

Mr. West did not perfect the appeal. After the Notice of Appeal was filed, he was obligated to lodge at least a partial record with the Supreme Court to preserve the appeal but he did not do so. Mr. West's obligation existed even if he believed the appeal was without merit.

At no time did Mr. West seek to be relieved from representing Mr. Pinell after he filed the Notice of Appeal. Rule 16 of the Rules of Appellate Procedure - Criminal requires trial counsel, whether retained or court appointed, to continue to represent a convicted defendant throughout any appeal, unless permitted by the trial court or the appellate court to withdraw in the interest of justice or for other sufficient cause. Mr. West did not comply with the requirements of this Supreme Court rule.

The Supreme Court found that Mr. West's failure to preserve Mr. Pinell's appeal was clearly error. The Court also stated that there was no reason to require Mr. West to admit fault because the record clearly showed him to be at fault.

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

1. That Mr. West's conduct violated Model Rule 1.2(a) because despite the fact that his client, Mr. Pinell, wished to pursue an appeal of the lower court's re-sentencing of him in the Drew County Circuit Court matter of State of Arkansas v. Steven R. Pinell, he failed to perfect the appeal after filing a timely Notice of Appeal. 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 consult with the client as to the means by which they are to be pursued.
2. That Mr. West's conduct violated Model Rule 1.3 when he failed to follow through with the appeal of Mr. Pinell after filing the Notice of Appeal on his behalf and when he failed to request an extension of time seeking additional time to have the record tendered to the Clerk of the Court, when the time to file the record was upon him. Model Rule 1.3 requires that a lawyer act with reasonable diligence and promptness in representing a client.
3. That Mr. West's conduct violated Model Rule 3.4( c) when he failed to adhere to the requirements of Rule 16 of the Arkansas Supreme Court Rules of Appellate Procedure - Criminal, when he failed to pursue the appeal for Mr. Pinell or to request that he be allowed to

withdraw from representation. Model Rule 3.4(c) requires that a lawyer not knowingly disobey an obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists.

4. That Mr. West's conduct violated Model Rule 8.4(d) because his failure to preserve the appeal of Mr. Pinell resulted in the need for the Supreme Court to consider his pro se Motion for Belated Appeal. 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 B, that B. DALE WEST, Arkansas Bar ID# 89192, be, and hereby is, REPRIMANDED for his conduct in this matter. Further, pursuant to Section 18.A. of the Procedures of the Arkansas Supreme Court Regulating Professional Conduct of Attorneys at Law, Mr. West is assessed the costs of this proceeding in the amount of \$50. In addition, pursuant to Section 18.B. of the Procedures, Mr. West is ordered to pay a fine of \$750. The costs assessed and fine ordered herein, totaling \$800, 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: \_\_\_\_\_

