

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

IN RE: **JEFFERY H. KEARNEY**
 ARKANSAS BAR ID #91249
 CPC Docket No. 2015-066

FILED
AUG - 3 2015
STACEY PECTOL
CLERK

FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose in regards to Jeffery H. Kearney, of Pine Bluff, Arkansas in reference to Mr. Kearney's representation of the Appellant in the matter of Wendie Cox vs. State of Arkansas, CR 14-965.

1. Wendie Cox was convicted out of Colombia County on charges of theft for stealing five horses from Southern Arkansas University. She was sentenced to a total of sixty (60) years in ADC.

2. Ms. Cox's conviction was upheld on appeal. She then filed pro se Rule 37 Petition. On September 22, 2014, the circuit court denied the Rule 37 Petition.

3. On October 14, 2014, Mr. Kearney filed a Notice of Appeal from the denial of the Rule 37 Petition. The record was lodged with the Supreme Court Clerk on November 12, 2014. That made the brief on Ms. Cox's appeal due on December 22, 2014. No brief was filed on December 22, 2014. No extension requests were filed before the December 22 deadline.

4. On January 13, 2015, Mr. Kearney filed Appellant's Motion to File Belated Brief. Mr. Kearney states in his motion that he failed to file the brief in time because he had lost staff and had no staff over the holiday.

5. On February 5, 2015, the Arkansas Supreme Court entered it's Opinion and Order granting the Motion with a final extension date of February 9, 2015, and referred Mr. Kearney to the Office of Professional Conduct. Kearney filed his client's brief on February 9, 2015.

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

1. Mr. Kearney's conduct violated Arkansas Rule 1.3 when he failed to timely file the brief on behalf of his client, Wendi Cox, with the Appellate Court. 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 8.4(d) when (a) his failure to timely file the appeal record with the Appellate Court resulted in a delay in the orderly and timely resolution of appellate proceedings, and (b) his failure to timely file the appeal record with the Appellate Court 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 **JEFFERY H. KEARNEY**, Arkansas Bar ID #91249, be, and hereby is, **SUSPENDED from the practice of appellate law before the Arkansas Appellate Courts for a period of THIRTY-SIX (36) MONTHS** for his conduct in this matter. Further, Mr. Kearney shall complete an approved course of instruction on Arkansas appellate practice. Mr. Kearney shall notify current and future clients of his suspension from appellate practice. The notifications shall be written notification bearing the signature of each client evidencing that they have received such notice. A copy of the written and signed notifications from each client shall be provided to the Office of Professional Conduct. Mr. Kearney's prior disciplinary record was a factor in assessing the sanction in this matter.

The suspension in this matter shall become effective immediately upon the filing of this Findings and Order with the Clerk of the Arkansas Supreme Court. Jeffery H. 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 B

By: 
Niki T. Cung, Chair, Panel B

Date: June 23, 2015