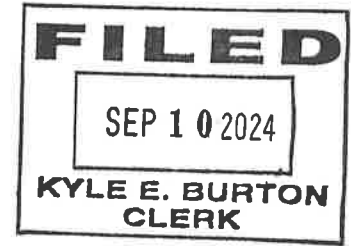


**BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT
PANEL D**

**IN RE: DREW LANDON CURTIS
ARKANSAS BAR ID #2022137
CPC Docket No. 2024-005**



FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from a grievance filed by Shawn McLemore. Drew Landon Curtis, of Little Rock, Arkansas is an attorney licensed to practice law in the State of Arkansas and assigned Bar Number 2022137.

1. In September 2021, Shawn McLemore (McLemore) was found guilty and sentenced by a jury to twenty-five (25) years in the Arkansas Department of Corrections. McLemore is currently in custody at the Grimes Unit in Newport, Arkansas.

2. In October 2021, McLemore hired the James Law Firm to handle the direct appeal. The fee agreement was signed by Amie McLemore (Amie), who held a power of attorney for Shawn McLemore, and it stated that after the appeal was completed, they would discuss pursuing a Rule 37 Post-Conviction Relief Petition.

3. Rule 37 of the Arkansas Rules of Criminal Procedures allows for a petition to be filed claiming a right to be released, or to have a new trial, or to have the original sentence modified, if certain grounds are met.

4. In December 2022, Curtis notified Amie that the appeal was denied, and told her that she needed to sign a new fee agreement for a total of \$10,000.00, to pursue the Rule 37 Petition. Amie paid James Law Firm the \$10,000.00. The Mandate issued January 13, 2023.

5. McLemore exclusively worked with Curtis for the Rule 37 petition.

6. On March 13, 2023, the due date of the petition, Curtis told Amie that he had not received the signed and notarized petition back from the Arkansas Department of Corrections,

and asked Amie if he could sign it for McLemore. Amie questioned Curtis as to why he waited until the due date but gave Curtis permission to execute the verification. On that same day, Curtis texted Amie to tell her that the petition was filed.

7. The petition's verification page was signed "SM" by Curtis and notarized by Jose Barraza. McLemore did not sign the verification page and did not know who signed for him, nor did he know Jose Barraza.

8. On March 13, 2023, at 7:15 p.m., Curtis filed a Motion to Withdraw Petition for Postconviction Relief, due to "inadvertently submit[ing] the petition for postconviction relief earlier that day. The Court granted Curtis's motion on March 14, 2023.

9. Curtis later filed another Petition for Postconviction Relief simultaneous to his motion to withdraw the previous Rule 37 Petition on March 13, 2023. The verification page contained the unnotarized signature of McLemore.

10. On March 23, 2023, Curtis filed a Motion to Amend Verification, asking for leave of court to amend, because "Counsel did not receive the verified petition until after March 13, 2023."

11. The motion to amend included a third version of the petition for post-conviction relief with a proper verification bearing McLemore's signature which was notarized on March 16, 2023.

12. In the Rule 37 Petition, Curtis alleged ineffective assistance of counsel in that McLemore's attorney's representation fell well below an objective standard of reasonableness. That "[d]efense counsel was ineffective in failing to introduce the alleged victim's medical records, which showed an absence of physical injuries typically associated with rape or sexual assault of a minor." Curtis also alleged that the failure to introduce the victim's medical records

prejudiced McLemore and likely influenced the jury's verdict, particularly because while the jury was deliberating, they were unable to reach a verdict, and submitted a note to the court asking if there was medical evidence to review.

13. The State filed a Response to Petitioner's Motion to Amend Verification, arguing that the motion should be denied, because Petitioner timely filed the Petition, but three (3) hours later, asked that it be withdrawn, thus the March 23, 2023, Motion to Amend and included Petition were not filed within the sixty (60) days of the date the appellate court issued its mandate. The State's Response does not address the second petition simultaneously filed on March 13, 2023.

14. The Court denied Curtis's Motion to Amend for the reasons argued by the State.

15. On April 23, 2023, McLemore received a letter from the James Firm dated April 5, 2023, concluding the representation.

16. The order denying Curtis's Motion to Amend was not electronically signed and filed until April 24, 2024.

17. On May 4, 2023, The James Firm sent Amie a full refund.

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

1. That Curtis's conduct violated Rule 1.1 when he failed to clarify the misunderstanding and argue to the court that while one petition was dismissed, there remained a timely filed, petition that could have potentially been amended under Ark. R. Crim P. 37.2(e). Arkansas Rule 1.1 provides that a lawyer shall provide competent representation to a client. Competent

representation requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation.

2. That Curtis's conduct violated Rule 1.3 when he waited until the filing deadline to have the Rule 37 Petition signed and notarized by his client, who was incarcerated. It is Curtis's responsibility to plan for the time it takes for the Arkansas Department of Corrections to process a request for a notarized signature, and Curtis was hired in plenty of time to prepare and timely file the petition. Curtis's representation was not prompt or diligent and resulted in a denial of the right to be heard on the post-conviction petition. Further, Curtis's time to file a federal habeus corpus petition has also expired. Arkansas Rule 1.3 provides that a lawyer shall act with reasonable diligence and promptness in representing a client.

3. That Curtis's conduct violated Rule 8.4(a) when he facilitated compromising the integrity of a notary public's stamp by having an illegitimate signature notarized by Jose Barraza. The misrepresentation that a signature was witnessed, when it was not, violates the Rules of Professional Conduct. Arkansas Rule 8.4(a) provides that it is professional misconduct for a lawyer to violate or attempt to violate the rules of professional conduct, knowingly assist or induce another to do so, or do so through the acts of another.

4. That Curtis's conduct violated Rule 8.4(d) when he deprived McLemore of the relief available under Ark. R. Crim. P. 37.4 where the circuit court "may set aside the original judgment, discharge the petition, resentence him or her, grant a new trial, or otherwise correct the sentence."

The possibility of proving that there was prejudice to McLemore by counsel's failure to introduce the very information that the jury requested to aid in their verdict was thwarted by

Curtis. Arkansas Rule 8.4(d) provides that it is professional misconduct for a lawyer to 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 D, that **DREW LANDON CURTIS**, Arkansas Bar ID #2022137, be, and hereby is, **Cautioned** for his conduct in this matter. Curtis shall pay costs in the amount of ONE HUNDRED FIFTY DOLLARS (\$150.00) in accordance with Section 18.A of the Procedures. The attorney's lack of any prior disciplinary record was a factor in assessing this sanction. The cost assessed herein totaling ONE HUNDRED FIFTY DOLLARS (\$150.00) 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 D



Scott S. Hilburn, Acting-Chair, Panel D

Date: 8/20/24