

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT
PANEL A

IN RE: LARRY G. DUNKLIN, Respondent

Arkansas Bar ID#81057

CPC Docket No. 2003-085

FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee by referral from Michael Gans, Clerk for the United States Court of Appeals, Eighth Circuit. The information related to the representation of L.C. Davis by Respondent from 2000 through 2003.

Respondent Dunklin entered an appearance of behalf of L.C. Davis on December 14, 2000, and represented Davis through the entry of a Judgment and Commitment Order on October 9, 2002, wherein Davis was sentenced to one hundred and thirty-five (135) months in the custody of the United States Marshals Service; placed on five (5) years supervised release; and directed to pay a one hundred (\$100) dollar assessment. Rule 27C(a) of the Rules of the United States Court of Appeals for the Eighth Circuit requires counsel in criminal cases to file a notice of appeal upon request by the criminal defendant. On October 15, 2002, Davis filed a *pro se* notice of appeal. No action was taken by Dunklin on Davis' behalf.

On December 5, 2002, an Order to Show Cause was issued to Dunklin directing him to show why Davis' appeal should not be dismissed for failure to prosecute the appeal. On January 16, 2003, an Order to Show Cause was issued to Dunklin directing him to demonstrate why he should not be disciplined for failure to prosecute an appeal on Davis' behalf. Dunklin failed to respond to both Orders to Show Cause.

On March 5, 2003, an Order was entered by the United States Court of Appeals for the Eighth Circuit suspending Dunklin from the practice of law before the Eighth Circuit Court of Appeals.

Dunklin acknowledged in his response to the Formal Complaint that the Eighth Circuit Court of Appeals suspended him from practicing law in the Court of Appeals. The United States District Court for the

Eastern District of Arkansas issued to Dunklin an Order to Show Cause why he should not be suspended from the practice of law in the United States District Court for the Eastern District of Arkansas. Dunklin stated that Davis failed to consult with his counsel prior to filing the notice of appeal. Upon receipt of the Order to Show Cause, Dunklin attributed the failure to respond to the Court's Orders to an oversight on his part. Dunklin was reprimanded by the United States District Court for the Eastern District of Arkansas for his conduct in failing to pursue an appeal on Davis' behalf.

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

1. That Respondent Larry Dunklin violated Model Rule 1.2(a) when he failed to abide by the decision of his client, L.C. Davis, to appeal the sentence imposed by the United States District Court for the Eastern District of Arkansas to the United States Court of Appeals for the Eighth Circuit. Model Rule 1.2(a) requires that a lawyer abide by a client's decisions concerning the objectives of representation and shall consult with the client as to the means by which they are to be pursued.

2. That Respondent Larry Dunklin violated Model Rule 1.3 when he failed to undertake the necessary steps to represent L.C. Davis on appeal from the United States District Court for the Eastern District of Arkansas to the United States Court of Appeals for the Eighth Circuit. Model Rule 1.3 requires that a lawyer act with reasonable diligence and promptness in representing a client.

3. That Respondent Larry Dunklin violated Model Rule 3.4(c) when he failed to respond to the December 5, 2002, Order to Show Cause issued by the United States Court of Appeals for the Eighth Circuit directing him to state why the appeal of L.C. Davis, Dunklin's client, should not be dismissed for failure to prosecute the appeal as required by Rule 27C(a) of the Rules of the United States Court of Appeals for the Eighth Circuit; and, when he failed to respond to the January 16, 2003, Order to Show Cause issued by the United States Court of Appeals for the Eighth Circuit directing him to show why he should not be disciplined for his failure to prosecute an appeal on behalf of his client and for his failure to respond to the December 5,

2002, Order to Show Cause. Model Rule 3.4(c) requires that a lawyer not knowingly disobey an obligation under the rules of a tribunal.

4. That Respondent Larry Dunklin violated Model Rule 8.4(d) when he failed to prosecute an appeal on behalf of his client which resulted in a delay in the orderly and timely resolution of appellate proceedings; when he failed to respond to the December 5, 2002, Order to Show Cause issued by the United States Court of Appeals for the Eighth Circuit which required that court to expend additional time and effort which would not have been necessary otherwise; and when he failed to respond to the January 16, 2003, Order to Show Cause issued by the United States Court of Appeals for the Eighth Circuit which required that court to expend additional time and effort which would not have been necessary otherwise. Model Rule 8.4 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 A, that LARRY G. DUNKLIN, Arkansas Bar ID# 81057, be, and hereby is, REPRIMANDED; fined the sum of ONE THOUSAND (\$1,000.00) DOLLARS; and assessed costs in the amount of FIFTY (\$50.00) DOLLARS for his conduct in this matter . The fine imposed and 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 A

By: _____

Gwendolyn D. Hodge, Chair, Panel A

Date: _____

