BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT
PANEL B

FILED
FEB 12 2010
LESLIE W. STEEN
CLERK

IN RE: JOHN I. PURTLE
ARKANSAS BAR ID# 50075
CPC DOCKET NO. 2009-068

FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from information provided by the Arkansas Supreme Court in a judicial referral from the Honorable Phillip T. Whiteaker, Circuit Judge of the 23rd Judicial District, Second Division. The conduct related to the representation of Warren Wallring and Richard Gooden in the case of *Stephen J. Jackson v. Warren Wallring and Richard Gooden,* Lonoke County Circuit Court Case No. CV 2006-529. John I. Purtle is an Arkansas licensed attorney and his practice is located in Conway, Arkansas.

Stephen Jackson mortgaged property comprised of a farmhouse and 210 acres of farmland located in Lonoke County, Arkansas. Mr. Jackson went into default and the mortgagees, Warren Wallring and Richard Gooden, filed a Notice of Default and Intent to Sell. The date of the sale was November 22, 2006. On November 16, 2006, Mr. Jackson filed an *ex Parte, pro se* Petition for Temporary Restraining Order. The Lonoke County Circuit Court granted the request until a hearing could be scheduled on the matter. A hearing was then set for January 8, 2007. A second *ex Parte* Order was entered permitting the sale to go forward and the proceeds placed in the registry of the court. The sale proceeded and proceeds were placed in the registry of the court. A hearing was held on January 8 but neither Wallring nor Gooden appeared. A second hearing was set for January 22 to determine distribution of the proceeds

from the sale of the farmland. Again, neither Wallring nor Gooden appeared at the January 22 hearing. The Court directed the Clerk to issue a check in the amount of $60,700 to Wallring and a check in the amount of $11,358.64 be sent to Jackson. On February 22, 2007, a notice of appel was filed on behalf of Gooden by John I. Purtle. Mr. Purtle filed a Motion for Expedited Relief with the Arkansas Supreme Court. The Arkansas Supreme Court denied the motion on April 26, 2007.

On April 23, 2007, Mr. Purtle filed a Motion to Vacate Null and Void Orders and to Dismiss Case. In the motion, Mr. Purtle asked that the orders issued by the Lonoke County Circuit Court on November 17, 2006; December 11, 2006; December 12, 2006; and January 22, 2007, be declared null and void because of fraud perpetrated on the court.

The Lonoke County Circuit Court dismissed the case on June 15, 2007. On June 25, 2007, Mr. Purtle filed a Motion for Reconsideration of the June 15 Order again asking that the orders of November 17, 2006; December 11, 2006; December 12, 2006; and January 22, 2007 be declared null and void.

On July 12, 2007, Mr. Purtle filed a document entitled "Supplemental Update." In the document, Mr. Purtle made a statement that the "court's sua sponte initiated entwinement with Mr. Jackson (i.e., which fully explains the subsequent cover-up by this court of its inexcusable shocking illegal conduct in this case), is fully set forth in said "Request for Transcription of All Ex Parte Proceedings."

Mr. Purtle filed a Request for Transcription of All Ex Parte Proceedings on September 10, 2007. In the Request, Mr. Purtle again made the statement that there was an unlawful fraudulent entwinement with Mr. Jackson and the Court resulting in a cover-up. Mr. Purtle then

requested that the Court provide him with the date, time and a precisely detailed re-creation summary of all ex parte communications the Court had with Mr. Jackson, including times the Court, among other things, prayed, sang, initiated prayer, initiated singing, with Mr. Jackson and all ex parte communications the Court had about the lawsuit to specified individuals.

On July 16, 2007, Mr. Purtle filed a notice of appeal. In the notice of appeal, Mr. Purtle stated that the transcript "revealed that this court sua sponte aided and abetted Mr. Jackson's fraud as well as revealing the existence of more unreported ex parte communications by Mr. Jackson with this court."

Mr. Purtle sent a letter dated September 10, 2007, to the Honorable Phillip Whiteaker. In his letter, Mr. Purtle stated the following:

> "At no time in my long career, both as an attorney and Associate Justice of the Arkansas Supreme Court, have I seen such a collapse of the legal system as has happened in this case that was conducted entirely ex parte. It appears to me that every safeguard, designed over hundreds of years to prevent what should never happened, was violated without any thought as to the consequences."
>
> ...
>
> "Before I file the record in this case with the Clerk of the Arkansas Supreme Court, I feel that it would be helpful if you will address the incomplete and missing matters that are required by law to be in the record, and explain the untruthful matters currently

existing in the record.

First, attached hereto is a copy of the September 5, 2007 letter from Alice Cook, your official court reporter, responding to my September 4, 2007, letter to her. However, I am confused by the second paragraph of her September 5, 2007 letter. It states:

> "Any information regarding a hearing held on December 11, 2006, will need to be addressed to Judy Honeycutt Baser, who was the substitute court reporter for me on that day. ***There was no hearing on December 12, 2006. The court merely signed an amended order***."

If in fact '[t]here was no hearing on December 12, 2006' and if in fact '[t]he Court merely signed an amended order,' then the record is incomplete or does not reflect the truth because: (1) the "Amended Ex Parte Order" singed by you on December 12, 2006 stated "[o]n this day comes on for ***hearing the motion*** of the Plaintiff Stephen J. Jackson, pro se, for an Amended Ex Parte Order..."; (2) the record contains no written motion or other writing by Mr. Jackson (proceeding pro se) reflecting that he sought to amend the December 11, 2006 "Ex Parte Order;" and (3) Mr. Jackson's oral motion to you was not recorded.

...

Therefore, would you please specify exactly for the record what transpired?

Second, if in fact 'there was *no* hearing on December 12, 2006 and if in fact '[t]he Court merely signed an ***amended order***,' then the record remains incomplete and would still not reflect the truth because the 'Amended Ex Parte Order' states:

> '*The Court doth find: 'That this Court has jurisdiction over the parties...*'

...

Therefore, would you please specify exactly for the record what transpired?

Third, the record is incomplete and does not reflect the truth because the December 11, 2006 "Ex Parte Order" and the December 12, 2006 "Amended Ex Parte Order" did not order that the "sale proceeds" be deposited into the registry of the court. As reflected above, the transcript of the December 11, 2006 hearing states that against your better judgment, you directed Mr. Jackson to prepare an order stating, in relevant part, that "***the title company at closing deposit the sale proceeds into the registry of the court to be held pending further hearings***."

...

Therefore, would you please specify exactly for the record what transpired?

Fourth, the record is incomplete and does not reflect the truth because it does not reflect an entry of appearance by the

Stuart Law Firm although it prepared the "Amended Ex Parte Order" and also represented in ex parte communications to you that Mr. Wallring and Mr. Gooden had been served. In addition, the record does not reflect whether the Stuart Law directly delivered the "Amended Ex Parte Order" to you in conjunction with Mr. Jackson or if Mr. Jackson directly delivered it to you accompanied by the Stuart Law Firm). Mr. Jackson merely ***approved*** the "Amended Ex Parte Order," which states "***the Court doth find...this Court has jurisdiction over the parties***" although one day earlier he repeatedly admitted to you that Mr. Wallring and Mr. Gooden had not been served.

...

Therefore, would you please specify exactly for the record what transpired?

Fifth, on January 8, 2007, upon inadvertently discovering that Mr. Jackson had scheduled a January 8, 2007 hearing, Mr. Wallring and Mr. Gooden each faxed to the circuit clerk and to your office a special appearance Notice informing that they had not been served anything, that this court had no jurisdiction of them, and that they had not received any notice of January 8, 2007 hearing....Yet there is nothing in the record reflecting that said ex parte orders were served on Mr. Wallring or Mr. Gooden as prescribed by Rules 4 and 65(a)(1) of the Arkansas Rules of Civil

Procedure.

...

Therefore, would you please specify exactly for the record what transpired?

Sixth, when the January 8, 2007 hearing was cancelled, Mr. Jackson scheduled another hearing for January 22, 2007. He filed with this Court a typed notice of the January 22, 2007 hearing which does not contain any certificate of service as required by Arkansas Rules of Civil Procedure Rule 5(e). Mr. Jackson *did not mail it to Mr. Wallring and Mr. Gooden until January 23, 2007 at Texarkana, TX.* Again, I remind that there is nothing in the record reflecting that said ex parte orders were served on Mr. Wallring or Mr. Gooden as prescribed by Rules 4 and 65(a)(1) of the Arkansas Rules of Civil Procedure.

...

Therefore, would you please explain for the record what rule of civil procedure authorized you to find that Mr. Wallring and Mr. Gooden had been served with notice of the January 22, 2007 hearing?

I am having this letter to you filed and served to you on Monday, September 10, 2007. I would think that ten days is more than sufficient time to address these separate points to enable the accuracy and truthfulness of the record on appeal.

Signed

John I. Purtle"

On October 26, 2007, Mr. Purtle filed on behalf of his client, Wallring, and Gooden, *pro se*, a Motion to Extend Time to File Notice of Appeal. In the motion, Mr. Purtle stated the following::

> 2. On the afternoon of June 25, 2007, Mr. Gooden discovered both the existence and recordation of the December 11, 2006 "smoking gun" hearing (i.e., which had previously been concealed by this court's staff.) Thereupon, Mr. Gooden immediately called and spoke with the substitute court reporter who had recorded the hearing (Judy Hunnicutt Baser of Stuttgart, AR). Ms. Baser described her recollection of the hearing (i.e., which proved to be fairly accurate). Recognizing that her recollection would slam-dunk prove Mr. Jackson's "unclean hands," Mr. Gooden requested Ms. Baser to transcribe the hearing as soon as possible and preserve the tape as evidence.

A hearing was held on November 19, 2007, on the Motion to Extend Time to File Notice of Appeal. Present was Mr. Jackson. Neither Mr. Wallring, his attorney John Purtle, nor Gooden were present. As Mr. Purtle and Mr. Gooden were not present, the Court denied the Motion to Extend Time to File Notice of Appeal. On November 30, 2007, Mr. Purtle filed a Notice of Appeal on behalf of his client, Wallring. On December 3, 2007, Mr. Purtle filed a Motion for Extension of Time To File Appellants' Brief. The motion was granted and Mr. Purtle was

allowed until February 9, 2008, to file a brief. On February 11, 2008, Mr. Purtle filed a Motion for Ten Day Extension of Time to Correct Numbering of the Record and To File Appellants' Brief. The motion was granted and Mr. Purtle was allowed until March 6, 2008, to file a brief on the appellants' behalf. The extension was noted as a final extension. No brief was filed on or before March 6, 2008. On April 24, 2008, the appeal was dismissed.

Mr. Purtle responded to the allegations in the Formal Complaint and denied violation of any of the Rules alleged. As to Rule 3.1, Mr. Purtle stated that there was nothing in the Formal Complaint setting forth the offense alleged and, therefore, there was nothing to explain. According to Mr. Purtle, there were no claims or contentions which were without merit. The trial court never had jurisdiction. As to the Rule 8.2 allegation, Mr. Purtle stated that the letter of July 10, 2007, wherein he stated in Paragraph 52 that Mr. Gooden acquired the transcription of the concealed December 11, 2006 'smoking gun' hearing which exposed Mr. Jackson and the court's inexcusable unlawful and fraudulent entwinement with Mr. Jackson and the court's subsequent "cover up" was a result of the court's refusal to admit that a hearing was held on December 11, 2006. A transcript of the hearing was not originally made part of the record but later made part of the record. According to Mr. Purtle, the transcript showed another part of the court's ex parte discussions and orders with no service upon Mr. Purtle or his clients. According to Mr. Purtle, the court stated that there was no hearing on December 11, 2006 but only entry of an amended order, yet the amended order stated "The Court doth find that this court has jurisdiction" even though there was no service.

Upon consideration of the formal complaint and attached exhibit materials, the response to 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. John I. Purtle violated Rule 3.1 when, in a pleading entitled "Request for Transcription of All Ex Parte Proceedings" filed on July 12, 2007, in the case of Stephen J. Jackson v. Warren Wallring and Richard Gooden, Lonoke County Circuit Court Case No. CV 2006-529, John I. Purtle stated at Paragraph 59 the following:

"59. Mr. Wallring and Mr. Gooden further request this court to specifically identify the date, approximate time, and provide a certified precisely detailed re-creation summary of:

> all ex parte communications with Mr. Jackson of any kind (written, oral or physical) regardless of location, including but not limited to: Phillip Whiteaker (as a judge, associate pastor, lay-person, or any other capacity) *praying with Mr. Jackson*; Phillip Whiteaker (as a judge, associate pastor, lay-person, or any other capacity) *singing religious hymns/songs with Mr. Jackson*; Mr. *Jackson initiating prayer in the presence of Philip Whiteaker* (as a judge, associate minister, lay-person, or any other capacity); Mr. Jackson *initiating singing religious hymns/songs* in the presence of Philip Whiteaker (as a judge, associate minister, lay-person or any other capacity); Philip Whiteaker (as a judge, associate minister, lay-person, or other capacity) *praying or initiating prayer in the presence of Mr. Jackson*; Philip Whiteaker (as a judge, associate minister, lay-person, or other capacity) *singing religious hymns/songs or initiating the singing of religious hymns/songs in*

the presence of Mr. Jackson; the *mentioning or reference of any religious subject, religious theme, religious parable, or religious allegory by Mr. Jackson in the presence of Phillip Whiteaker* (as a judge, associate pastor, lay-person, or any other capacity); any *conversation or mention by Mr. Jackson about morals, morality, socially appropriate conduct, socially appropriate speech, etc to Phillip Whiteaker* (as a judge, associate pastor, lay-person, or any other capacity) ; any conversation or mention by Phillip Whiteaker (as a judge, associate pastor, lay-person, or any other capacity) about *any religious subject, religious themes, religious parable, or religious allegory to Mr. Jackson*; and any conversation or mention by Phillip Whiteaker (as a judge, associate pastor, lay-person or any other capacity) about *morals, morality, socially appropriate conduct, socially appropriate speech, etc to Mr. Jackson.*"

all ex parte communications, all conversations of any kind, and all mention or reference about this case or in relation to this case about Mr. Jackson, Mr. Wallring, Mr. Gooden, Mr. Purtle, Humnoke Farms Ltd., Morris C. "Kit" Williams, Robert Dittrich, Charles "Chuck" Gibson II, First State Abstract and Insurance Corporation (aka First State Abstract and Real Estate Corporation and/or Central Arkansas Title, Inc.) And any person connected therewith (Judy White, David Estes, Karen Hardke, etc), First State Bank at Lonoke and any person connected therewith (David Estes, Karen Hardke, etc), which was made to

or made in the presence of Philllip Whiteaker (as a judge, associate pastor, lay-person, or any other capacity) by Mike Stuart, Ginger Stuart, Cathy Smith or other person at the Stuart Law Firm, P.A.;"

all ex parte communications, all conversations of any kind, and all mention or reference about this case or in relation to this case about Mr. Jackson, Mr. Wallring, Mr Gooden, Mr. Purtle, Humnoke Farms Ltd., Morris C. "Kit" Williams, Robert Dittrich, Charles "Chuck " Gibson II, the Stuart Law Firm, P.A. (and any person connected therewith (Mike Stuart, Ginger Stuart, Cathy Smith, etc) which was made to made in the presence of Phillip Whiteaker (as a judge, associate pastor, lay-person, or any other capacity) by First State Abstract and Insurance Corporation (a.k.a. First State Abstract and Real Estate Corporation and/or Central Arkansas Title, Inc.) and any person connected therewith (Judy White, David Estes, Karen Hardke, etc) or by First State Bank at Lonoke and any person connected therewith (David Estes, Karen Hardke, etc);"

all ex parte communications, all conversations of any kind, and all mention or reference about this case or in relation to this case about Mr. Jackson, Mr. Wallring, Mr Gooden, Mr. Purtle, Humnoke Farms Ltd., Morris C. "Kit" Williams, Robert Dittrich, Charles "Chuck " Gibson II, First State Abstract and Insurance Corporation (a.k.a. First State Abstract and Real Estate Corporation and/or Central Arkansas Title, Inc.) and any person connected therewith (Judy White, David Estes, Karen Hardke, etc) which was made to or in the presence of Phillip Whiteaker (as a judge, associate pastor, lay-person, or any other capacity)

by Mike Stuart, Ginger Stuart, Cathy Smith or other person at the Stuart Law Firm, P.A.;"

all ex parte communications, all conversations of any kind, and all mention or reference about this case or in relation to this case about Mr. Jackson, Mr. Wallring, Mr Gooden, Mr. Purtle, Humnoke Farms Ltd., Morris C. "Kit" Williams, Robert Dittrich, Charles "Chuck" Gibson II, the Stuart Law Firm, P.A. (and any person connected therewith (Mike Stuart, Ginger Stuart, Cathy Smith, etc) which was made to made in the presence of Phillip Whiteaker (as a judge, associate pastor, lay-person, or any other capacity) to First State Abstract and Insurance Corporation (a.k.a. First State Abstract and Real Estate Corporation and/or Central Arkansas Title, Inc.) and any person connected therewith (Judy White, David Estes, Karen Hardke, etc) or to First State Bank at Lonoke and any person connected therewith (David Estes, Karen Hardke, etc);"

all ex parte communications, all conversations of any kind, and all mention or reference about this case or in relation to this case about Mr. Jackson, Mr. Wallring, Mr Gooden, Mr. Purtle, Humnoke Farms Ltd., Morris C. "Kit" Williams, Robert Dittrich, Charles "Chuck " Gibson II, Stuart Law Firm, P.A. or any person connected therewith (Mike Stuart, Ginger Stuart, Cathy Smith, etc), First State Abstract and Insurance Corporation (a.k.a. First State Abstract and Real Estate Corporation and/or Central Arkansas Title, Inc.) and any person connected therewith (Judy White, David Estes, Karen Hardke, etc) or by First State Bank at Lonoke and any person connected therewith (David Estes, Karen

Hardke, etc) which was made by or initiated by any person not herein identified which was made to or in the presence of Phillip Whiteaker (as a judge, associate pastor, lay-person, or any other capacity); and

all ex parte communications, all conversations of any kind, and all mention or reference about Mr. Jackson to the Arkansas Supreme Court Committee on Professional Conduct."

all without a basis in law and fact and the request was frivolous. Rule 3.1 states that a lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis in law and fact for doing so that is not frivolous, which includes a good faith argument for an extension, modification or reversal of existing law.

2. John I. Purtle violated Rule 8.2 when, in a pleading entitled "Request for Transcription of All Ex Parte Proceedings" filed on July 12, 2007, in the case of Stephen J. Jackson v. Warren Wallring and Richard Gooden, Lonoke County Circuit Court Case No. CV 2006-529, he stated at Paragraph 52 the following:

"52. On Saturday evening, June 30, 2007, Mr. Gooden acquired the transcription fo the concealed December 11, 2007 [sic] "smoking gun" hearing exposing Mr. Jackson and this Court's inexcusable unlawful fraudulent entwinement with Mr. Jackson and this Court's subsequent cover-up."

which was a statement made with reckless disregard concerning the integrity of Judge Phillip Whiteaker. Rule 8.2 states that a lawyer shall not make a statement that the lawyer knows to be false or with reckless disregard as to its truth or falsity concerning the qualifications or integrity of a judge, adjudicatory officer or public legal officer, or of a candidate for election or

appointment to judicial or legal office.

3. John I. Purtle violated Rule 8.2 when, in a pleading entitled Supplement Update to Memoradum in Support of Motion for Reconsideration of June 15, 2007, Order, he stated at Paragraph 2, the following:

> "2. The "smoking gun" transcript of the December 11, 2006 ex parte hearing, revealing this court's sua sponte initiated entwinement with Mr. Jackson (i.e., which fully explains the subsequent cover-up by this court of its inexcusable shocking illegal conduct in this case), is fully set forth in said "Request for Transcription of All Ex Parte Proceedings."

which was a statement made with reckless disregard concerning the integrity of Judge Phillip Whiteaker. Rule 8.2 states that a lawyer shall not make a statement that the lawyer knows to be false or with reckless disregard as to its truth or falsity concerning the qualifications or integrity of a judge, adjudicatory officer or public legal officer, or of a candidate for election or appointment to judicial or legal office.

4. John I. Purtle violated Rule 8.2 when he wrote in a letter dated September 10, 2007, the following:

> "At no time in my long career, both as an attorney and Associate Justice of the Arkansas Supreme Court, have I seen such a collapse of the legal system as has happened in this case that was conducted entirely ex parte. It appears to me that every safeguard, designed over hundreds of years to prevent what should never happened, was violated without any thought as to the consequences."
>
> ...

"Before I file the record in this case with the Clerk of the Arkansas Supreme Court, I feel that it would be helpful if you will address the incomplete and missing matters that are required by law to be in the record, and explain the untruthful matters currently existing in the record.

First, attached hereto is a copy of the September 5, 2007 letter from Alice Cook, your official court reporter, responding to my September 4, 2007, letter to her. However, I am confused by the second paragraph of her September 5, 2007 letter. It states:

> "Any information regarding a hearing held on December 11, 2006, will need to be addressed to Judy Honeycutt Baser, who was the substitute court reporter for me on that day. ***There was no hearing on December 12, 2006. The court merely signed an amended order.***"

If in fact '[t]here was no hearing on December 12, 2006' and if in fact '[t]he Court merely signed an amended order,' then the record is incomplete or does not reflect the truth because: (1) the "Amended Ex Parte Order" singed by you on December 12, 2006 stated "[o]n this day comes on for ***hearing the motion*** of the Plaintiff Stephen J. Jackson, pro se, for an Amended Ex Parte Order..."; (2) the record contains no written motion or other writing by Mr. Jackson (proceeding pro se) reflecting that he sought to

amend the December 11, 2006 "Ex Parte Order;" and (3) Mr. Jackson's oral motion to you was not recorded.

...

Therefore, would you please specify exactly for the record what transpired?"

Second, if in fact 'there was *no* hearing on December 12, 2006 and if in fact '[t]he Court merely signed an ***amended order***,' then the record remains incomplete and would still not reflect the truth because the 'Amended Ex Parte Order' states:

> '*The Court doth find: 'That this Court has jurisdiction over the parties...*'

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Therefore, would you please specify exactly for the record what transpired?"

Third, the record is incomplete and does not reflect the truth because the December 11, 2006 "Ex Parte Order" and the December 12, 2006 "Amended Ex Parte Order" did not order that the "sale proceeds" be deposited into the registry of the court. As reflected above, the transcript of the December 11, 2006 hearing states that against your better judgment, you directed Mr. Jackson to prepare an order stating, in relevant part, that "***the title company at closing deposit the sale proceeds into the registry of the court to be held pending further hearings***."

...

Therefore, would you please specify exactly for the record what transpired?"

Fourth, the record is incomplete and does not reflect the truth because it does not reflect an entry of appearance by the Stuart Law Firm although it prepared the "Amended Ex Parte Order" and also represented in ex parte communications to you that Mr. Wallring and Mr. Gooden had been served. In addition, the record does not reflect whether the Stuart Law directly delivered the "Amended Ex Parte Order" to you in conjunction with Mr. Jackson or if Mr. Jackson directly delivered it to you accompanied by the Stuart Law Firm). Mr. Jackson merely ***approved*** the "Amended Ex Parte Order," which states "***the Court doth find...this Court has jurisdiction over the parties***" although one day earlier he repeatedly admitted to you that Mr. Wallring and Mr. Gooden had not been served.

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Therefore, would you please specify exactly for the record what transpired?"

Fifth, on January 8, 2007, upon inadvertently discovering that Mr. Jackson had scheduled a January 8, 2007 hearing, Mr. Wallring and Mr. Gooden each faxed to the circuit clerk and to your office a special appearance Notice informing that they had not been served anything, that this court had no jurisdiction of them, and that they had not received any notice of January 8, 2007

hearing....Yet there is nothing in the record reflecting that said ex parte orders were served on Mr. Wallring or Mr. Gooden as prescribed by Rules 4 and 65(a)(1) of the Arkansas Rules of Civil Procedure.

...

Therefore, would you please explain for the record what grounds you relied upon to cancel the January 8, 2007 hearing?"

Sixth, when the January 8, 2007 hearing was cancelled, Mr. Jackson scheduled another hearing for January 22, 2007. He filed with this Court a typed notice of the January 22, 2007 hearing which does not contain any certificate of service as required by Arkansas Rules of Civil Procedure Rule 5(e). Mr. Jackson *did not mail it to Mr. Wallring and Mr. Gooden until January 23, 2007 at Texarkana, TX.* Again, I remind that there is nothing in the record reflecting that said ex parte orders were served on Mr. Wallring or Mr. Gooden as prescribed by Rules 4 and 65(a)(1) of the Arkansas Rules of Civil Procedure.

...

Therefore, would you please explain for the record what rule of civil procedure authorized you to find that Mr. Wallring and Mr. Gooden had been served with notice of the January 22, 2007 hearing?"

which contained statements that were made in reckless disregard as to the integrity of Judge Phillip Whiteaker. Rule 8.2 states that a lawyer shall not make a statement that the lawyer knows to be false or with reckless disregard as to its truth or falsity concerning the qualifications or integrity of a judge, adjudicatory officer or public legal officer, or of a candidate for election or appointment to judicial or legal office.

5. John I. Purtle violated Rule 8.2 when, in a Motion to Extend Time to File Notice of Appeal, filed on October 26, 2007, he stated at Paragraph 2, the following:

> "2. On the afternoon of June 25, 2007, Mr. Gooden discovered both the existence and recordation of the December 11, 2006 "smoking gun" hearing (i.e., which had previously been concealed by this court's staff.) Thereupon, Mr. Gooden immediately called and spoke with the substitute court reporter who had recorded the hearing (Judy Hunnicutt Baser of Stuttgart, AR). Ms. Baser described her recollection of the hearing (i.e., which proved to be fairly accurate). Recognizing that her recollection would slam-dunk prove Mr. Jackson's "unclean hands," Mr. Gooden requested Ms. Baser to transcribe the hearing as soon as possible and preserve the tape as evidence."

which contained statements that were made in reckless disregard as to the integrity of Judge Phillip Whiteaker. Rule 8.2 states that a lawyer shall not make a statement that the lawyer knows to be false or with reckless disregard as to its truth or falsity concerning the qualifications or integrity of a judge, adjudicatory officer or public legal officer, or of a candidate for election or appointment to judicial or legal office.

WHEREFORE, it is the decision and order of the Arkansas Supreme Court Committee on

Professional Conduct, acting through its authorized Panel B, that JOHN I. PURTLE, Arkansas Bar No. 50075, be, and hereby is, CAUTIONED and assessed costs in the amount of FIFTY DOLLARS ($50.00) for his conduct in this matter. All fines and 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: Valerie E Kelly
Valerie Kelly, Chair, Panel B

Date: October 30, 2009