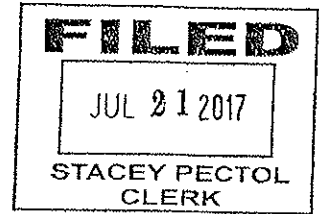


BEFORE THE ARKANSAS SUPREME COURT
COMMITTEE ON PROFESSIONAL CONDUCT
PANEL A



IN RE: **KEITH G. RHODES**, Respondent
Arkansas Bar ID # 77110
CPC Docket No. 2017-015

CONSENT FINDINGS & ORDER

The formal charges of misconduct upon which this Consent Order is premised, involving respondent attorney Keith G. Rhodes of Des Arc, Prairie County, Arkansas, arose from information brought to the attention of the Committee on Professional Conduct by a media source. Following Respondent Attorney's receipt of the formal complaint, the attorney entered into discussion with the Executive Director which has resulted in an agreement to discipline by consent pursuant to Section 20.B of the Arkansas Supreme Court Procedures Regulating Professional Conduct of Attorneys at Law (2011).

1. On his guilty plea on May 16, 2011, in Prairie County Circuit Court, Frederick David Owens, Jr. ("Owens") was sentenced to sixty (60) months probation on counts of felony Aggravated Assault, Theft By Receiving, and Possession of Firearm by Certain Person (felon in possession of firearm).

2. On his guilty plea on August 20, 2012, in Prairie County Circuit Court, Owens was sentenced to seventy-two (72) months in prison on counts of felony Aggravated Assault and Possession of a Defaced Firearm. After his sentencing on August 20, 2012, Owens was allowed to remain at liberty until ADC bed space was available for him.

3. After being arrested for first degree murder, Owens was jailed in Prairie County from September 1 - November 11, 2012. He was then in custody of the ADC on another

unrelated sentence from November 11, 2012, until July 16, 2014. He was then in custody in the Lonoke County Jail on a "hold" from Prairie County on the Buck murder charge from July 16, 2014 until March 24, 2016. He was then held in the Prairie County Jail on the Buck charge from March 24 until April 27, 2016.

4. Rhodes was a deputy prosecuting attorney for Prairie County, Arkansas, during the relevant times herein, from September 2012 through December 2014.

5. On September 1, 2012, Donovan F. Buck died as a result of a homicide in Des Arc, Prairie County, Arkansas. Owens was arrested for first degree murder shortly thereafter. On September 6, 2012, an Information was filed in Prairie County Circuit Court, Northern District Case No. 59NCR-12-28, charging Owens with first degree murder in the stabbing death of Buck on September 1, 2012.

6. Defense attorney Jimmie L. Wilson ("Wilson") entered his appearance for Owens on or about September 12, 2012, and filed several motions in September, all addressed to Keith Rhodes of the Prosecutor's Office in Des Arc.

7. On October 15, 2012, a hearing was conducted at which Owens (in custody), Rhodes, and Wilson appeared. The hearing transcript reflects Wilson requested and was granted a continuance "for the term." The State did not request the setting of any future court date. Wilson then remained silent in the Owens case to see what action the State would take. The case docket reflects no filings or activity by the State to bring Owens to trial or get time charged against Owens from September 25, 2012 to August 5, 2015, when Tim Isaac wrote Wilson about various trial dates.

8. In January 2015, a new elected prosecutor took office and a new Prairie County

deputy prosecutor, Tim Isaac, was appointed. On August 5, 2015, Isaac inquired of Wilson by letter about several trial dates offered by the court to counsel.

9. On August 24, 2015, the court advised counsel Isaac and Wilson by letter that the Owens case was set for jury trial February 8-9-10, 2016 in Des Arc. On January 12, 2016, the State moved for a trial continuance, as it was unable to secure the trial attendance of the key medical examiner witness. The continuance was granted, the time charged to the State, and a new trial date was to be set.

10. On February 17, 2016, Isaac wrote Wilson about preparation for the trial on its new dates April 27-29, 2016. On April 25, 2016, Wilson filed a motion to dismiss the Buck murder charge against Owens due to a speedy trial violation, reciting Owens had been imprisoned in Arkansas on another conviction for two years since his arrest in the Buck matter and the State had not timely brought Owens to trial.

11. On April 27, 2016, the State filed its response to the motion to dismiss, setting out the history of the case, and admitting the State could not meet its burden to defend against the speedy trial claim. The State also stated that "speedy trial" ran on the case on February 2, 2014, while Owens was serving his term of imprisonment in ADC in another case.

12. On April 27, 2016, the trial court granted the motion to dismiss. The Sentencing Order was not filed until January 23, 2017. On February 17, 2017, the State filed its Notice of Appeal, now pending as Case No. CR-17-314.

Upon consideration of the formal complaint and attached exhibits, admissions made by the respondent attorney, the terms of the written consent, the approval of Panel A of the Committee on Professional Conduct, and the Arkansas Rules of Professional Conduct, the

Committee on Professional Conduct finds:

A. The conduct of Keith G. Rhodes, as set forth in the attached Exhibits, violated Rule 8.4(d) in that as deputy prosecuting attorney representing the State of Arkansas, Rhodes failed take action in 2012-2014 in the State v. Owens murder case to prevent the running of "speedy trial," and to prevent the case from being subject to dismissal for lack of timely prosecution after February 2, 2014, and actually being dismissed with prejudice on April 27, 2016, thereby engaging in conduct that is prejudicial to the administration of justice. 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, in accordance with the consent to discipline presented by Mr. Rhodes and the Executive Director, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct that Respondent **KEITH G. RHODES**, Arkansas Bar No. 77110, be, and hereby is, **CAUTIONED** for his conduct in this matter, and assessed case costs of \$50.00. The \$50.00 costs assessed herein shall be payable by cashier's check or money order payable to the "Clerk, Arkansas Supreme Court" and 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 Steven Shults
Steven Shults, Chairperson, Panel A

Date July 21, 2017