

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT

IN RE: SAM WHITFIELD, JR. - Respondent Attorney

Arkansas Bar ID # 82056

CPC Docket No. 2001-035

FINDINGS & CONSENT ORDER OF DISCIPLINE

The formal charges of misconduct upon which this Consent Order is premised, involving respondent attorney Sam Whitfield, Jr. of Helena, Phillips County, Arkansas, arose from information brought to the attention of the Committee on Professional Conduct by Circuit Judge Harold Erwin of Jackson County, Arkansas.

1. As private counsel, attorney Sam Whitfield, Jr. represented Terry Lynn Williams in Jackson County Circuit Court No. CR-99-248 on a felony charge of delivery of controlled substance. After several trial settings and continuances, the case was set for jury trial on February 2, 2001. You had knowledge of the trial date through your pre-trial conversations with Stanley Montgomery, Chief Deputy Prosecuting Attorney.

2. On February 2, 2001, you failed to appear for trial as ordered by the court. The 55-member jury panel assembled had to be sent home and was paid a total of \$825.00 by Jackson County in appearance fees for the day's service.

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 8.C.1(a) of the Arkansas Supreme Court Procedures Regulating Professional Conduct of Attorneys at Law (1998). Upon consideration of the formal complaint and attached exhibits, admissions made by the respondent attorney, the terms of the written consent, the approval of the Alternate Committee on Professional Conduct, and the Arkansas Model Rules of Professional Conduct, the Committee on Professional Conduct finds:

1. That Mr. Whitfield`s conduct violated Model Rule 3.2 by his failure to appear for jury trial, which resulted in the delay of resolution of his client's case. Model Rule 3.2 requires that a lawyer shall make reasonable efforts to expedite litigation consistent with the interests of the client.

2. That Mr. Whitfield's conduct violated Model Rule 3.4(c) when he failed to appear for a scheduled jury trial pursuant to a scheduling order entered by the court and of which he had knowledge. Model Rule 3.4(c) requires that a lawyer shall not knowingly disobey an obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists.

3. That Mr. Whitfield`s conduct violated Model Rule 8.4(d) when he failed to appear for a jury trial, by wasting court and public resources when the jury panel had to be sent home without hearing a case and was compensated from public court funds by the county in the total amount of \$825.00. Model Rule 8.4(d) requires that a lawyer shall not engage in conduct that is prejudicial to the administration of justice.

WHEREFORE, in accordance with the consent to discipline presented by Mr. Whitfield and the Executive Director, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct that respondent Sam Whitfield, Jr., Arkansas Bar No. 82056, be, and hereby is, REPRIMANDED for his conduct in this matter and ordered to pay restitution of \$825.00 to the Jackson County Circuit Court to reimburse the county for the cost of the jury.

ARKANSAS SUPREME COURT COMMITTEE
ON PROFESSIONAL CONDUCT

By _____

Bart F. Virden, Chairperson

Date _____