

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT

IN RE: **SAM WHITFIELD, JR.**

Arkansas Bar ID #82056

CPC Docket No. 2002-081

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 records in another proceeding.

Mr. Whitfield had a child support contempt hearing pending and another attorney, Dion Wilson of Helena, appeared with him as his counsel in that hearing. An agreement was reached that if Whitfield paid \$1,800.00 that day, he would not be jailed. His attorney gave him the funds to make the payment, thereby giving a client financial assistance in pending litigation and violating Model Rule 1.8(e) with Mr. Whitfield's assistance and ratification of the act. At the time Whitfield was the sitting district court judge for Helena, and Dion Wilson and members of his practice firm often appeared in this court or sat as special judges at the invitation of then-judge Whitfield. Wilson's action in making a substantial cash gift to a client in pending litigation, and especially a lawyer client who was a sitting judge in a local court in which Wilson and his firm had frequent dealings raised a serious question about Wilson's honesty and fitness to practice law and were not reported to the appropriate disciplinary authority by Whitfield. Mr. Whitfield's dealing in this matter, with an attorney who individually and whose firm members appeared before him in court, caused a situation in which someone, whether the judge or other lawyers, would likely have had to recuse if challenged for conflict in cases in this court, thereby causing delays in the administration of justice.

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 (2002). 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 C of the 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 5.1(c)(1) in that Model Rule 1.8(e) provides that a lawyer shall not provide financial assistance to a client in connection with pending or contemplated litigation. He accepted a \$1,800 cash gift, given to him as financial assistance by his attorney of record in pending litigation, Dion Wilson, on September 14, 2001, so Mr. Whitfield could pay his court-ordered child support in Phillips Chancery Case Nos. E-99-288 and E-99-180, and avoid being ordered to jail that day. He ratified Mr. Wilson's prohibited conduct and has failed to repay him the funds. After the financial assistance was provided, then-Helena District Judge Whitfield was apparently absent from his official judicial duties on at least four occasions through February 12, 2002, when Dion Wilson served in his place as special district judge, for which Wilson was paid a total of \$925.00 by the City of Helena. Since September 14, 2001, two other lawyers with whom Dion Wilson practices law served as special district judge on at least two occasions, for which they billed a total of \$500.00 for their services to the City of Helena. Whitfield drew his regular salary as district judge during all these periods. Model Rule 5.1(c)(1) provides that a lawyer shall be responsible for another lawyer's violation of the rules of professional conduct if the lawyer orders or, with knowledge of the specific conduct, ratifies the conduct involved.
2. That Mr. Whitfield 's conduct violated Model Rule 8.3(a), when, as an attorney, he had knowledge that on September 14, 2001, his attorney Dion Wilson had committed a violation of Model Rule 1.8(e) by providing prohibited financial assistance to his client Sam Whitfield, Jr., who was also a sitting judge in Wilson's home county, an act that raised a substantial question as to Wilson's honesty, trustworthiness or fitness as a lawyer in other respects, and Whitfield failed to report this probable professional misconduct to the Committee on Professional Conduct. Model Rule 8.3(a) requires that a lawyer having knowledge that another lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question as to that lawyer's honesty, trustworthiness or fitness as a lawyer in other respects, shall inform the appropriate professional authority.
3. That Mr. Whitfield 's conduct violated Model Rule 8.4(a) when he knowingly assisted or induced another attorney, Dion Wilson, in violating Model Rule 1.8(e), which provides that a lawyer shall not provide financial assistance to a client in connection with pending or contemplated litigation. Whitfield accepted an \$1,800 cash gift, given to him as financial assistance by his attorney, Dion Wilson, on September 14, 2001, so Whitfield could pay his court-ordered child support obligation in Phillips Chancery Case Nos. E-99-288 and E-99-180, which were in litigation with a hearing conducted that same date, and used the funds to avoid going to jail that day. Model Rule 8.4(a) requires that a lawyer shall not 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.

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 he hereby is, **SUSPENDED FOR FOUR (4) MONTHS** from the practice of law for his conduct in this matter. The suspension ordered herein shall be effective on the date this order is filed with the Clerk of Court

ARKANSAS SUPREME COURT COMMITTEE

ON PROFESSIONAL CONDUCT - PANEL C

By _____

David Newbern, Chairperson

Date _____