

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT
PANEL B

FILED

IN RE: **LINDA R. SCRIBNER**
Arkansas Bar ID # 86154
CPC Docket No. 2008-024

JUN 23 2008

LESLIE W. STEEN
CLERK

CONSENT FINDINGS & ORDER

The formal charges of misconduct upon which this Consent Order is premised, involving respondent attorney Linda R. Scribner of Bentonville, Benton County, Arkansas, arose from information brought to the attention of the Committee on Professional Conduct in No. CR-06-1141, *Robert Lee Sparkman*, on March 20, 2008.

Based on her applications submitted March 13, 1997, the Arkansas Public Defender Commission, by letter dated February 25, 1998, certified Ms. Scribner as qualified to represent criminal defendants in cases at all levels, including as lead counsel in death penalty cases. These certifications, plus her substantial experience in criminal cases as a public defender from at least early 1990, (see *Burkett v. State*, 32 Ark. App. 60, showing Scribner as a deputy public defender in 1990), through the time of the *Sparkman* case, indicate that in 2002 she then had the experience and ability to be expected to perform at a high level in criminal cases.

She represented Robert Lee Sparkman in his criminal case in Benton Circuit Court case No. CR-2002-748-2 in 2002-2003. On April 17, 2003, she filed a motion to suppress a custodial statement he made on June 26, 2002, after her appointment to represent him. She failed to allege a critical basis for challenging the highly incriminating statement of her client, that his Sixth Amendment constitutional "right to counsel" was clearly violated by law enforcement in the taking of this custodial statement in the absence of his counsel. Sparkman was convicted of

raping a four year old female and sentenced to eighteen (18) years in prison. His conviction was affirmed on direct appeal in 2005. His Rule 37 petition was denied by the trial court, but that ruling was unanimously reversed by the Supreme Court in March 2008. Sparkman has now been granted a new trial at which his custodial statement may not be used by the State. Ms. Scribner filed a response admitting violations of both Rules alleged.

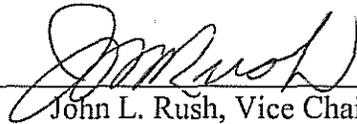
Following Respondent Attorney's receipt of the formal complaint, the attorney entered into discussion with the Executive Director which has resulted in an agreement to discipline by consent pursuant to Section 20.B of the Arkansas Supreme Court Procedures Regulating Professional Conduct of Attorneys 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 B of the Committee on Professional Conduct, and the Arkansas Model Rules of Professional Conduct, the Committee on Professional Conduct finds:

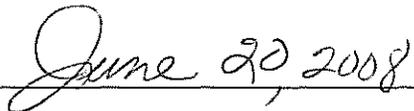
A. Ms. Scribner's conduct violated Model Rule 1.1, in that she failed to provide competent legal representation when she failed to include in the motion to suppress she filed for her client Robert Sparkman on April 17, 2003, an allegation of the violation of his Sixth Amendment constitutional right to counsel at the custodial statement taken from him after counsel was appointed to represent him, an oversight or mistake so basic that any lawyer exercising reasonable legal knowledge, skill, and preparation should have known to include such a basis to suppress in the motion, along with the other basis for challenge she did allege. Model Rule 1.1 requires that a lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

B. Ms. Scribner's conduct violated Rule Model 8.4(d) in that her failure to include in the motion to suppress her client's statement a basic constitutional violation as a ground resulted in the appellate court having to spend time and resources dealing with a subsequent Rule 37 petition, and granting her former client Robert Sparkman a new trial several years after his conviction, court efforts that would not have been necessary if she had properly plead his motion to suppress in 2003. Model 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 M and the Executive Director, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct that Respondent **LINDA R. SCRIBNER**, Arkansas Bar No. 86154, be, and hereby is, **REPRIMANDED** for her conduct in this matter, and assessed \$100.00 in Committee costs. The \$100.00 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  _____
John L. Rush, Vice Chairman, Panel B

Date  _____