

**BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT  
PANEL A**

IN RE:       **JAMES KIRBY RIFFEL**  
              Arkansas Bar ID # 71065  
              CPC Docket No. 2007-013

**FINDINGS AND ORDER**

The formal charges of misconduct upon which this Findings and Order is based were developed from information provided to the Committee by Lawrence County District Court Judge Larry Hayes on January 25, 2007. The information related to a document filed in that court on or about December 14, 2006, by Respondent James Kirby Riffel, an attorney practicing primarily in Pocahontas, Randolph County, Arkansas. On February 13, 2007, Respondent was served with a formal complaint, to which he filed a timely response.

On August 30, 2006, Mr. Riffel was convicted of speeding in the Newport District Court in Jackson County, Arkansas, in Case No. TR-06-1376, for an offense of going 78 mph in a 55 mph zone that occurred on June 21, 2006, on US Highway 67. He forfeited a bond of \$165.00 and was placed on probation.

On October 24, 2006, Mr. Riffel was cited for speeding (68 mph in a 55 mph zone) in Lawrence County, with the charge becoming Case No. 06-3616 in Lawrence County District Court. At his court date on December 14, 2006, he submitted to the court, through the prosecutor, his Affidavit notarized December 11, 2006, falsely stating that he had received no other traffic citations in the twelve months preceding this citation (issued October 24, 2006), as a means of taking advantage of the court's policy of being placed on probation if he had no other speeding conviction in the previous twelve months. Based on Mr. Riffel's false Affidavit, the court

approved a Judgment order on December 14, 2006, placed him on probation and ordered him to pay a fine and costs of \$110.00.

The court also directed that an officer run an ACIC driver's license check to verify that his record did not show previous speeding violations. That record check revealed his case in Newport that was concluded on August 30, 2006, about three and one-half months before he executed his Affidavit in the Lawrence County case. Upon being provided this information, Judge Hayes scratched his approving signature off the December 14, 2006, probation Judgment, ordered Mr. Riffel's bond forfeited, and brought the matter to the attention of the deputy prosecutor, Joe Grider. Judge Hayes reports that Mr. Grider declined to take action. On December 20, 2006, Mr. Riffel executed an Amended and Substituted Affidavit, explaining his version of events leading to his original Affidavit to the Lawrence County District Court. His Amended and Substituted Affidavit sets out his explanation for the original Affidavit.

Upon consideration of the formal complaint and attached exhibit materials, the response to it, and other matters before it, and the Arkansas Rules of Professional Conduct, Panel A of the Arkansas Supreme Court Committee on Professional Conduct finds:

A. The conduct of Mr. Riffel violated Rule 3.3(a)(1) in that he made a false statement of fact to the Lawrence County District Court in his Affidavit of December 11, 2006, where he stated under oath that he had received no traffic citation for speeding within the twelve months preceding the citation pending in that court, when he had received a citation for speeding in Newport District Court on June 21, 2006, and had been placed on probation for that offense on August 30, 2006. Arkansas Rule 3.3(a) requires that a lawyer shall not knowingly: (1) make a false statement of fact or law to a tribunal.

B. The conduct of Mr. Riffel violated Rule 8.4(b) in that by means of the original Affidavit he executed on December 11, 2006, and caused to be submitted through the deputy prosecutor to the Lawrence County District Court in Case No. 06-3616 on December 14, 2006, he committed the criminal offenses of either perjury (Ark Code Ann. § 5-53-102 et seq.) or false swearing (Ark. Code Ann. § 5-53-103 et seq.), by submitting two inconsistent material sworn statements (his affidavits), see Ark. Code Ann. § 5-53-106, one of which is false, and affecting the same matter or transaction in a legal proceeding, a criminal act that reflects adversely on his honesty, trustworthiness or fitness as a lawyer in other respects. Arkansas Rule 8.4(b) provides that it is professional misconduct for a lawyer to commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects.

C. The conduct of Mr. Riffel violated Rule 8.4(c) in that he engaged in conduct involving dishonesty, fraud, deceit or misrepresentation when he made a false statement under oath to the Lawrence County District Court in his Affidavit executed December 11, 2006, when he made the sworn representation to that court that he had received no citations for speeding in the previous twelve months, for the purpose of making himself eligible to be placed on probation by that court for that offense. Arkansas Rule 8.4(c) provides that it is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

D. The conduct of Mr. Riffel violated Rule 8.4(d) in that the material false statement he made in his Affidavit executed December 11, 2006, for the Lawrence County District Court caused that court to have to go back to his closed case and strike the Judgment order entered December 14, 2006, and forfeit his bond for fine and costs, once his false statement was discovered. 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, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct, acting through its authorized Panel A, that **JAMES KIRBY RIFFEL**, Arkansas Bar ID# 71065, be, and hereby is, **REPRIMANDED** for his conduct in this matter, assessed Committee case costs of \$50.00, and ordered to pay a \$1,000.00 fine. The fine 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 with 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 T. Shults, Vice Chair, Panel A

Date: \_\_\_\_\_