

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

IN RE: Joseph D. Hughes, Respondent

Arkansas Bar ID# 97021

CPC Docket No. 2002-038

**FINDINGS AND ORDER**

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee by Judge Dan Stidham on January 23, 2002. The information related to communications and interactions Mr. Hughes had with Judge Stidham's Court during 2001 and 2002.

On March 29, 2002, Respondent was served with a formal complaint, supported by an affidavit from Judge Stidham. Respondent filed a timely response on May 7, 2002.

The facts in this case are that Mr. Hughes, while serving as a public defender in Greene County District Court, failed to appear at a hearing on July 2, 2001, and he had already been warned by the court that it would not tolerate any further tardiness or failures to appear. A hearing to show cause was held on July 19, 2001, and Mr. Hughes was found to be in contempt and fined \$50.00. In October 2001, a contempt citation was issued for Mr. Hughes failing to pay the \$50.00 fine. Judge Stidham recused from the hearing because Mr. Hughes told Judge Stidham that he had filed a formal complaint against him with the Arkansas Judicial Discipline and Disability Committee. Mr. Hughes paid the fine and purged himself of contempt.

On Monday, December 10, 2001, Mr. Hughes, once again, failed to appear on behalf of another criminal defendant in Judge Stidham's court. An alias warrant was issued for the client and an order to show cause was issued against Mr. Hughes. An hour and a half after court had begun, Mr. Hughes faxed a note to Judge Stidham's Court stating that he had prepared a complaint regarding Judge Stidham to the Judicial Discipline and Disability Committee which would either be sent that day or the next and that it was therefore a conflict for him to appear in Judge Stidham's court. The letter also requested that Judge Stidham recuse himself from hearing cases where Mr. Hughes was acting as counsel until the complaint before the Judicial Discipline Committee had been resolved. Judge Stidham did recuse, however, Judge Stidham is also Judge of the City Court of Marmaduke where he holds court once a month. On January 23, 2002, Mr. Hughes was supposed to appear to represent a client in the Marmaduke court. However, on January 22, 2002, Mr. Hughes called the Marmaduke Clerk and the Chief of Police in Marmaduke and advised them that he and his client, Mr. David Carr, refused to appear in court because of a standing conflict of interest Mr. Hughes had with Judge Stidham. Mr. Hughes then proceeded to attempt to continue his own cases by faxing a letter to the clerk without consulting the prosecuting attorney or the judge.

Judge Stidham then called the Arkansas Judicial Discipline and Disability Committee to determine if Mr. Hughes had in fact filed a complaint against him, and he was told that a complaint had not been filed. Judge Stidham had the Marmaduke Chief of Police to notify Mr. Hughes that his case would not be continued and that he should be present in court as previously scheduled. Mr. Hughes then faxed another letter to Judge Stidham's court requesting that Judge Stidham recuse from the case and stated that the deputy district court clerk had agreed to continue the case until April 17, 2002. He also stated that his client, Mr. Carr, was apprehensive about appearing before Judge Stidham. Mr. Hughes' client did appear in court that day as scheduled, however, Mr. Hughes himself did not. Another public defender was appointed to represent Mr. Carr, Mr. Hughes' client. Judge Stidham asked the deputy district court clerk if in fact she had continued the case and the clerk testified that she had never spoken with Mr. Hughes or anyone in Mr. Hughes' office about the case and that she never gets involved with scheduling or continuing cases on the Marmaduke docket as she has nothing to do with the Marmaduke Court. Judge Stidham also asked Mr. Carr whether he had any apprehensions about appearing before him, and Mr. Carr stated that he did not and that he did not want Judge Stidham to recuse himself.

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

- That Mr. Hughes' conduct violated Model Rule 1.3 when he willfully failed to

attend court, on more than one occasion, on behalf of his clients while serving as public defender. Model Rule 1.3 requires that a lawyer act with reasonable diligence and promptness in representing a client.

- That Mr. Hughes' conduct violated Model Rule 3.2 when, as Greene County

Public Defender, he willfully failed to attend court on behalf of his clients on more than once occasion and when on at least one occasion, he advised his client not to appear for a hearing, thereby causing a failure-to-appear citation to be entered against Mr. Carr. Model Rule 3.2 requires that a lawyer make reasonable efforts to expedite litigation consistent with the interests of the client.

- That Mr. Hughes violated Model Rule 3.3(a)(1), when, on December 10, 2001, he

faxed a letter to Judge Stidham advising the court he had prepared a complaint with the Judicial Discipline Committee and that he would send it that day or the next, and therefore it would be a conflict for him to appear in court, when in fact he had not and did not file such a complaint and no such conflict existed. Additionally, he violated Model Rule 3.3(a)(1) when, on January 22, 2002, he faxed a letter to the clerk of the Marmaduke Municipal Court advising that his client's court date had been moved to April 17, 2002, when in fact his client's cases had not been continued. Further, he violated this rule when, on January 23, 2002, he faxed Judge Stidham a letter requesting his recusal and stating that Tracy Hoepfl, the deputy district clerk for Greene County District Court had continued the case to April 17, 2002, when in fact Ms. Hoepfl had taken no such action and she stated that she was not associated with the Marmaduke Municipal Court in any way. Mr. Hughes also violated the Rule 3.3(a)(1) when, on January 23, 2002, he faxed a letter to the court stating that Mr. Carr was apprehensive about appearing before Judge Stidham, and that Mr. Carr had prepared an affidavit against Judge Stidham with the Judicial Discipline and Disability Committee, when in fact none of these were true statements. Model Rule 3.3(a)(1) provides that a lawyer shall not make a false statement of material fact or law to a tribunal.

- Mr. Hughes violated Model Rule 8.4(a) as Greene County Public Defender, when

he willfully failed to attend court on behalf of his clients on more than one occasion, including but not limited to July 2, 2001, and January 23, 2002. He also violated Model Rule 8.4(a) when, on at least one occasion, he advised his client, Mr. David Carr, not to appear for a hearing, thereby causing a failure-to-appear citation to be entered against Mr. Carr. Mr. Hughes further violated Model Rule 8.4(a) when, on December 10, 2001, he faxed a letter to Judge Stidham advising the court that he had filed a formal complaint against Judge Stidham with the Judicial Discipline and Disability Committee, when no such report had been filed, and when on January 22, 2002, he faxed a letter to the clerk of the Marmaduke Municipal Court advising that his client's court date had been moved to April 17, 2002, when in fact his client's cases had not been continued. Mr. Hughes also faxed Judge Stidham a letter requesting his recusal and stating that Tracy Hoepfl, the deputy district clerk for Greene County District Court had continued the case to April 17, 2002, when in fact Ms. Hoepfl had taken no such action, and she stated that she was not associated with the Marmaduke Municipal Court in any way. Mr. Hughes further violated Model Rule 8.4(a) in a January 23, 2002, fax, when he stated that Mr. Carr was apprehensive about appearing before Judge Stidham, and that Mr. Carr had prepared an affidavit against Judge Stidham with the Judicial Discipline and Disability Committee, when in fact none of these were true statements. 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.

- Mr. Hughes violated Model Rule 8.4(c) on at least one occasion when he advised

his client, Mr. David Carr, not to appear for a hearing thereby causing a failure-to-appear citation to be entered against Mr. Carr. Mr. Hughes further violated Model Rule 8.4(c) on December 10, 2001, when he faxed a letter to Judge Stidham advising the court that he had filed a formal complaint against Judge Stidham with the Judicial Discipline and Disability Committee, when no such report had been filed. He also violated Rule 8.4(c) on January 22, 2002, when he faxed a letter to the clerk of the Marmaduke Municipal Court advising that his client's court date had been moved to April 17, 2002, when in fact his client's cases had not been continued. He also violated Model rule 8.4(c) on January 23, 2002, when he faxed Judge Stidham a letter requesting his recusal and stating that Tracy Hoepfl, the deputy district clerk for Greene County District Court had continued the case to April 17, 2002, when in fact Ms. Hoepfl had taken no such action, and she stated that she is not associated with the Marmaduke Municipal Court in any way. Mr. Hughes also violated Model Rule 8.4(c) in a January 23, 2002, fax when he stated that Mr. Carr was apprehensive about appearing before Judge Stidham, and that Mr. Carr had prepared an affidavit against Judge Stidham with the Judicial Discipline and Disability Committee, when in fact none of these were true statements. Model Rule 8.4(c) provides that a lawyer shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

- Mr. Hughes violated Model Rule 8.4(d) on at least one occasion when he advised

his client, Mr. David Carr, not to appear for a hearing thereby causing a failure-to-appear citation to be entered against Mr. Carr. Mr. Hughes also violated Model Rule 8.4(d) on December 10, 2001, when he faxed a letter to Judge Stidham advising the court that he had filed a formal complaint against Judge Stidham with the Judicial Discipline and Disability Committee, when no such report had been filed. Mr. Hughes also violated Model Rule 8.4(d) on January 22, 2002, when he faxed a letter to the clerk of the Marmaduke Municipal Court advising that his client's court date had been moved to April 17, 2002, when in fact his client's cases had not been continued. Mr. Hughes also violated Model Rule 8.4(d) on January 23, 2002, when he faxed

Judge Stidham a letter requesting his recusal and stating that Tracy Hoepfl, the deputy district clerk for Greene County District Court had continued the case to April 17, 2002, when in fact Ms. Hoepfl had taken no such action, and stated that she is not associated with the Marmaduke Municipal Court in any way. Mr. Hughes also violated Model Rule 8.4(d) in a January 23, 2002, fax when he stated that Mr. Carr was apprehensive about appearing before Judge Stidham, and that Mr. Carr had prepared an affidavit against Judge Stidham with the Judicial Discipline and Disability Committee, when in fact none of these were true statements. Model Rule 8.4(d) provides that a lawyer shall not 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 B, that Joseph D. Hughes, Arkansas Bar ID# 97021, be, and hereby is, REPRIMANDED for his conduct in this matter.

ARKANSAS SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT - PANEL B

By: \_\_\_\_\_

Richard F. Hatfield Chair, Panel B

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