

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

IN RE: **TIMOTHY SETH IRWIN**
Arkansas Bar ID # 2002066
CPC Docket No. 2011-017

FILED

JUN 20 2011

**LESLIE W. STEEN
CLERK**

FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based were developed from information provided to the Committee from the criminal case file and investigative file of law enforcement authorities in Pope County, Arkansas, and other sources from and after April 2008. The information related to felony criminal charges filed in that county against Respondent Timothy Seth Irwin, an attorney practicing primarily in Russellville, Arkansas and the disposition of those charges. This case was submitted to Panel A for ballot vote on May 20, 2011.

On April 4, 2008, Respondent attorney Seth Irwin and David Stringer, both of the Russellville area, were arrested in a drug investigation in Russellville, Pope, County, Arkansas, and both were charged with felony criminal offenses. Irwin was a local criminal defense attorney, and also served as a public defender in the adjoining 15th Judicial District.

On the day of his arrest, Seth Irwin was interviewed by members of the Fifth Judicial District Drug Task Force and gave a statement. Mr. Stringer did not give a statement. On March 10, 2009, Stringer entered a plea, and was placed on probation, with no time to serve, and thereafter was available to assist the State in the prosecution of the charges against Mr. Irwin. On March 12, 2009, Mr. Irwin entered a "no contest" plea to the amended count of

Class C felony “possession” of cocaine, was ordered placed on probation for sixty (60) months, to pay a fine of \$1,850, and to serve a term of 180 days incarceration at a state Regional Correctional Facility. Mr. Irwin served his 180 days and was released in September 2009.

The transcript of Mr. Irwin’s plea hearing on March 12, 2009, reveals that the Court accepted his plea of “no contest” to the felony charge and that the parties and the Court understood, and so stated, that if Mr. Irwin successfully completed the terms of his sixty (60) month probation the criminal case against him would be dismissed and that there would be no conviction entered against him.

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 Timothy Seth Irwin violated Arkansas Rule 8.4(b) in that on March 12, 2009, Mr. Irwin entered a plea of “no contest” to conduct which was felony possession of a controlled substance, cocaine, thus acknowledging the State could prove he engaged in the felony criminal conduct or act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects. He was also sentenced to and served 180 days in a state correctional institution as part of his plea disposition. Rule 8.4(b) does not require that an attorney be convicted in order for the Committee to enter a finding of professional misconduct. Ligon v. Clouette, 2011 Ark. 68, slip. opin. at pg 8 (No. 10-844, 2-17-2011); Ligon v. Newman, 365 Ark. 510, 231 S.W.3d 662 (2006). 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.

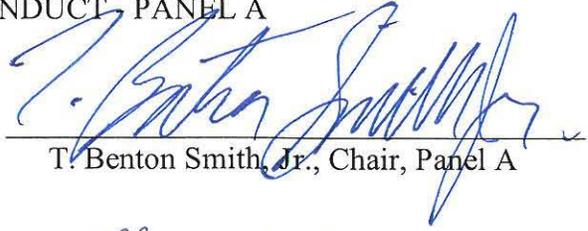
The conduct found proven in this charge is “serious misconduct” under Procedures Section 17.B(6), as the misconduct here constitutes a “serious crime,” as defined in these Procedures in Section 2.J, which defines “serious crime” as any felony.

B. The conduct of Timothy Seth Irwin violated Arkansas Rule 8.4(d) in that Mr. Irwin’s conduct of felony possession of a controlled substance, his plea of “no contest” to the State’s charge and evidence, and his incarceration for 180 days in a state correctional institution resulted in prejudice or diminution of public respect for the justice system. 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 **TIMOTHY SETH IRWIN**, Arkansas Bar ID# 2002066, be, and he hereby is, **REPRIMANDED** for his conduct in this matter and **ASSESSED \$50.00 COSTS**. The \$50.00 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 with thirty (30) days of the date this Findings and Order is filed of record with the Clerk of the Arkansas Supreme Court. In arriving at its sanction here, Panel A found that Respondent’s lack of prior disciplinary sanctions was a factor.

ARKANSAS SUPREME COURT
COMMITTEE ON PROFESSIONAL
CONDUCT - PANEL A

By:



T. Benton Smith, Jr., Chair, Panel A

Date:

May 24, 2011