

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

IN RE: JUSTIN B. HURST
ARKANSAS BAR No. 2005-021
CPC Docket No. 2007-084

CONSENT FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee by referral from the Arkansas Supreme Court on June 21, 2007. The information related to the representation of James Ray Creed by Justin B. Hurst in 2006 and 2007

Justin B. Hurst represented James Ray Creed in a criminal case in Hot Spring Circuit Court, Case No. CR 2006-195-2, in which Mr. Creed was charged with rape. On December 13, 2006, James Ray Creed was found guilty of rape. Mr. Creed was sentenced to a term of life imprisonment in the Arkansas Department of Correction. On December 15, 2006, a timely Notice of Appeal was filed by Mr. Hurst on behalf of his client, Mr. Creed. Rule 5(a) of Rules of Appellate Procedure—Civil, provides that the record on appeal shall be filed with the clerk of the Arkansas Supreme Court and docketed therein within 90 days from the filing of the first notice of appeal, unless the time is extended by order of the circuit court as hereinafter provided. Ninety days from December 15, 2006, would have made the record due on or before March 26, 2007. On March 6, 2007, the Hot Spring Circuit Court granted a request for extension of time to file a record and the record was due to be filed with the clerk of the Arkansas Supreme Court on or before May 14, 2007. On May 30, 2006, Mr. Hurst tendered to the Arkansas Supreme Court Clerk the record of the proceedings in the Hot Spring County Circuit Court. Mr. Hurst admitted

in his response that he failed to file the record of the appeal before the expiration of the time for filing the record.

The Arkansas Supreme Court Clerk notified Mr. Hurst that the record was filed late and that he would need to file a Motion for Rule on the Clerk. On May 31, 2007, Mr. Hurst filed a Motion for Rule on the Clerk. The Arkansas Supreme Court issued a *Per Curiam* Order on June 21, 2007, granting the Motion for Rule on the Clerk and referred the matter to the Office of Professional Conduct. Mr. Hurst admitted in his response that his failure to file the record caused a delay in the orderly and timely resolution of appellate proceedings. He also admitted that his failure to file the record in a timely manner caused the court to expend additional time and effort addressing the matter which would not have been necessary had he timely filed the record.

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

1. Justin B. Hurst violated Rule 1.3 when he failed to file in a timely manner with the Arkansas Supreme Court the record of the lower court proceedings on behalf of James Ray Creed, his client. Rule 1.3 requires that a lawyer act with reasonable diligence and promptness in representing a client.

2. Justin B. Hurst violated Rule 8.4(d) when he failed to file the record with the Supreme Court in a timely manner which resulted in a delay in the orderly and timely resolution of appellate proceedings and when his failure to timely file his client's record with the Supreme Court required the Court to expend additional time and effort which would not have been

necessary otherwise. Rule 8.4(d) requires that a lawyer 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 A, that JUSTIN B. HURST, Arkansas Bar No. 2005-021, be, and hereby is, CAUTIONED and assessed costs in the amount of FIFTY DOLLARS (\$50.00) for his conduct in this matter. The 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 A

By: _____
Jerry Pinson, Chair, Panel A

Date: _____