

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

**IN RE: BRIAN PATRICK HAYES
ARKANSAS BAR ID No. 2000044
CPC Docket No. 2012-069**

FINDINGS AND ORDER

Brian Patrick Hayes, is an attorney licensed in 2000 to practice law in the State of Arkansas and assigned Arkansas Bar Number 2000044. On September 7, 2011, Mr. Hayes was arrested on one count of Possession of Hydrocodone, a Class D Felony, and one count of Possession of Drug Paraphernalia, a Class D Felony. Charges were filed in Sebastian County Circuit Court on December 6, 2011. Mr. Hayes, through counsel, entered into a plea agreement with the State of Arkansas. In exchange for a plea of guilty to each charge, Mr. Hayes received a five-year suspended imposition of sentence, with both counts to be served concurrently, and to pay court costs. Mr. Hayes signed a Guilty Plea Statement acknowledging the agreement he had with the State of Arkansas. The Sebastian County Circuit Court accepted the plea agreement and a Judgment and Disposition Order was entered on December 7, 2011, and filed on December 12, 2011. Mr. Hayes reported his conduct to the Office of Professional Conduct by letter in December, 2011.

Mr. Hayes responded to the Complaint with a timely response. In his response, Mr. Hayes stated that at the time the crimes were committed, he had not been practicing law and at the time of his filing his response, he was not engaged in the practice of law. Mr. Hayes stated that he believed that he has been rehabilitated and able to competently return to the practice of law. Mr. Hayes provided additional information to the Panel addressing each of the mitigating factors listed in Section 19.C of the Procedures of the Arkansas Supreme Court Regulating

Professional Conduct of Attorneys at Law.

In reaching its decision, the Panel took into consideration the recent Arkansas Supreme Court ruling in the case of *Ligon v. Davis*, Arkansas Supreme Court Case No. 2012-440 (November 29, 2012). In that case, Fred D. Davis, III, was tried by a jury and found guilty of a criminal offense. The jury in Mr. Davis' case recommended suspending the imposition of a three-year sentence. The circuit court then entered a judgment and disposition order on February 2, 2005, acknowledging the jury's finding of guilt, placed Mr. Davis on suspended imposition of sentence, and required Mr. Davis to pay court cost. Mr. Davis appealed his matter to the Arkansas Court of Appeals and the judgment was affirmed. Following the appeal and the passage of time under the suspended imposition of sentence, the circuit court entered an order of dismissal on February 25, 2011. The circuit court found that Mr. Davis, having fully complied with the conditions for the period of suspension and having been rehabilitated, should receive a discharge from the suspended imposition of sentence and the proceedings dismissed.

In the instant matter, the Sebastian County Circuit Court entered a judgment and disposition order on December 12, 2011 and placed Mr. Hayes on a five-year suspended imposition of sentence. According to the judgment and disposition order entered in his case, Mr. Hayes is eligible to have his record sealed upon successful completion of the conditions of his suspended imposition of sentence. The Panel, pursuant to the decision in the *Davis* case, therefore considered only the criminal conduct to be disciplined and sanctioned, the possession of a controlled substance and possession of drug paraphernalia.

Upon consideration of the formal complaint and attached exhibits, the response to the Complaint filed by Mr. Hayes, and the Arkansas Rules of Professional Conduct, the Committee

on Professional Conduct finds:

1. On September 7, 2011, Brian Patrick Hayes committed the felony criminal act of being in possession of a controlled substance in violation of Arkansas Code §5-64-491 and the felony criminal act of being in possession of drug paraphernalia in violation of Arkansas Code §5-64-443. Rule 8.4(b) states 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.

WHEREFORE, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct, acting through its authorized Panel A, that BRIAN PATRICK HAYES, Arkansas Bar No. 2000044, be, and hereby is, SUSPENDED from the practice of law for a period of SIXTY MONTHS effective on the date of the filing of this Findings and Order, and assessed costs in the amount of FIFTY DOLLARS (\$50.00). All fines, restitution or costs, if any, 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, 2100 Riverfront Drive, Suite 200, Little Rock, Arkansas, 72202, within thirty (30) days of the date this Findings and Order is filed of record with the Clerk of the Arkansas Supreme Court.

It is so ordered.

ARKANSAS SUPREME COURT COMMITTEE
ON PROFESSIONAL CONDUCT - PANEL A

By:/s/ Danyelle J. Walker, Chair, Panel A

Date: February 11, 2013

Original filed with the Arkansas Supreme Court
on August 8, 2013.