

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

IN RE: WILLIAM ASA HUTCHINSON III, Respondent
Arkansas Bar No. 2001115
Docket No. CPC-2023-003

AMENDED ORDER OF INTERIM SUSPENSION

1. Lisa Ballard, Executive Director of the Supreme Court Office of Professional Conduct, presented to the Committee her verified Petition for Interim Suspension, pursuant to Section 16.A(3) of the Supreme Court Procedures Regulating Professional Conduct of Attorneys at Law (2011) (the “Procedures”), alleging Respondent William Asa Hutchinson III, Arkansas Bar No. 2001115, presently poses a substantial threat of serious harm to the public and to his clients if he continues to practice law.

2. Hutchinson has been suspended under §16(A)(3) and §17(E)(3)(c)(iii) of the Procedures because this Panel was presented with sufficient proof that Hutchinson poses a substantial threat of serious harm to the public and his clients, as a result of both his conduct on January 13, 2023, and his pattern of frequent, consistent conduct for years leading up to January 13, 2023.

3. The vote of this Panel to place Hutchinson under Interim Suspension was unanimous, as was the vote to deny his Request for Dissolution or Modification.

4. By order of the Arkansas Supreme Court issued on March 14, 2023, in *Hutchinson v. Committee on Professional Conduct*, Case No. CV-23-151, the matter of William Asa Hutchinson III’s (“Hutchinson”) interim suspension was remanded to this Panel for entry of a revised order based on the analysis of the factors the Court set in *Tapp v. Ligon*, 2013 Ark. 259.

5. The first of the *Tapp* factors is whether the public will suffer irreparable harm unless the order of suspension issues.

6. The Panel finds that this factor is satisfied.

7. The Preamble to the Arkansas Rules of Professional Conduct explains:

[5] A lawyer's conduct should conform to the requirements of the law, both in professional service to clients and in the lawyer's business and personal affairs. A lawyer should use the law's procedures only for legitimate purposes and not to harass or intimidate others. A lawyer should demonstrate respect for the legal system and for those who serve it, including judges, other lawyers and public officials. While it is a lawyer's duty, when necessary, to challenge the rectitude of official action, it is also a lawyer's duty to uphold legal process. A lawyer should avoid even the appearance of impropriety.

[13A] A lawyer owes a solemn duty to uphold the integrity and honor of the profession; to encourage respect for the law and for the courts; to act as a member of a learned profession; to conduct affairs so as to reflect credit on the legal profession; and to inspire the confidence, respect and trust of clients and the public. To accomplish those objectives, the lawyer must strive to avoid not only professional impropriety, but also the appearance of impropriety. The duty to avoid the appearance of impropriety is not a mere phrase. It is part of the foundation upon which are built the rules that guide lawyers in their moral and ethical conduct. This obligation should be considered in any instance where a violation of the rules of professional conduct are at issue. The principle pervades these Rules and embodies their spirit.

8. The comment to Rule 8.4 states:

[2] Many kinds of illegal conduct reflect adversely on fitness to practice law, such as offenses involving fraud and the offense of willful failure to file an income tax return. However, some kinds of offenses carry no such implication. Traditionally, the distinction was drawn in terms of offenses involving "moral turpitude." That concept can be construed to include offenses concerning some matters of personal morality, such as adultery and comparable offenses, that have no specific connection to fitness for the practice of law. Although a lawyer is personally answerable to the entire criminal law, a lawyer should be professionally answerable

only for offenses that indicate lack of those characteristics relevant to law practice. Offenses involving violence, dishonesty, breach of trust, or serious interference with the administration of justice are in that category. A pattern of repeated offenses, even ones of minor significance when considered separately, can indicate indifference to legal obligation.”

9. Hutchinson consistently has violated the law in such a manner and with such a frequency that his conduct interferes with the administration of justice and indicates indifference to his own obligation to obey the law. Hutchinson’s repeated DWI charges, possession of controlled substances, possession of firearms while in possession of controlled substances, and refusals to submit to blood alcohol testing are examples of his complete disrespect for the law and the administration of justice.

10. While Hutchinson indicated in his Affidavit that he “*will* be participating in JLAP,” which is a laudable intention, notably he had not taken this step as of the date of his Request for Dissolution or Modification of Order of Interim Suspension, despite his history enumerated in this Order.

11. Hutchinson’s behavior threatens serious harm to the public and his clients because he has demonstrated a clear lack of judgment or willingness to follow the law, and based upon his latest arrest involving a felony charge, he appears to be escalating his criminal behavior. Neither the public nor his clients should be subjected the risk of Hutchinson continuing to break the law.

12. Hutchinson’s pattern of reckless behavior erodes confidence in the legal profession and the respect and trust clients and the public deserve to have in it. This harms the public as well as the profession.

13. Hutchinson’s own representations that his clients are fully informed of his repeated instances of criminal behavior and thus cannot be harmed is not persuasive; it is the Committee’s

responsibility to protect the public, rather than to allow some members of the public purportedly to assume the risk for everyone.

14. In addition to his most recent arrest, Hutchinson's pattern of behavior includes five (5) other known instances of similar conduct going back as far as 2016:

- Arrested for Driving While Intoxicated in Rogers in 2019;
- Convicted in 2018 for Driving While Intoxicated from the West Fork District Court for which he received a fine and 365 days in jail, 364 days suspended;
- Convicted in 2017 for Driving While Intoxicated, Careless and Prohibited Driving and Refusal to Submit to a Chemical Test in Fayetteville, which were later dismissed because of errors in citations;
- Guilty Plea in 2016 entry of a guilty plea in the Circuit Court of Baldwin County, Alabama for possession of Methylenedioxymethamphetamine, commonly known as "MDMA" (See Exhibit 4 of Petition for Interim Suspension); and
- Arrested for Driving While Intoxicated following a car accident on January 24, 2016, on Interstate 49 near Fayetteville. Hutchinson reportedly crashed his pickup truck into a guardrail just before 4 a.m.

(See Exhibit 2 of Petition for Interim Suspension).

15. Hutchinson previously was disciplined in both Arkansas (Case No. CPC 2019-039) and Missouri (Case No. SC97422) for his 2016 conduct in Alabama, and his arrest in 2019 occurred during the effective dates of his discipline from these states.

16. Hutchinson has shown a pattern of driving while intoxicated, possession of controlled substances, and refusing to cooperate in testing processes. Even without all five of the

incidents listed above, there is a concerning pattern established that, for the reasons discussed herein, causes serious risk of harm to the public and his clients.

17. In the most recent incident, in addition to allegedly driving at a high rate of speed in close proximity to a Sheriff's Office while intoxicated and later refusing chemical testing, Hutchinson carried a firearm while also possessing controlled substances in violation of Ark. Code Ann. § 5-74-106. This alleged conduct meets the elements for a Class Y felony and exposes Hutchinson to a potential life sentence. No matter what action ultimately is taken by the prosecutor, the conduct was captured on body camera video, in addition to being detailed in an affidavit by Benton County Sheriff's Deputy Hunter Volner. (See Exhibits 1 and 2 of Reply to Response to Petition for Interim Suspension). Exhibit 1 can be found at the following link:

<https://drive.google.com/drive/folders/16eAYSfKFDKDQLOtc0XvDbohVqu1ATQ22?usp=sharing>.

18. Neither a criminal conviction nor a charge is required for the Committee to find some form of serious harm, misconduct, or a threat to the public. (See e.g. *Tapp v. Ligon*, 2013 Ark. 259; See also *Ligon v. Newman*, 365 Ark 510, 521-2 (2006) (citing *Neal v. Hollingsworth*, 338 Ark. 251(1999)).

19. An attorney who has repeatedly violated the law, who consistently is charged with criminal offenses, including felony offenses involving illegal drugs and a firearm, and who by virtue of this conduct exhibits a dependence on or disregard for the risks of using drugs and/or alcohol, lacks fitness to practice law. There are obvious risks associated with an attorney who is addicted to alcohol or controlled substances, including risks regarding the entrustment of money, meeting critical deadlines, acting in the best interests of clients and generally exercising good

judgment.

20. Hutchinson's repeated arrests involving the use of alcohol and controlled substances are indicative of a substance abuse issue that could result in innumerable harms both to the public and to Hutchinson's clients, whether they believe so or not. His simultaneous possession of a firearm only further raises the specter of harm.

21. As a self-regulating body, OPC must discharge its duty in regard to Hutchinson's consistent and continued disregard for the law. To do otherwise would send a message to the public that the legal profession's self-regulation serves to protect attorneys and not the public itself.

22. The second of the *Tapp* factors is whether the threatened injury to the public outweighs whatever damage the proposed order may cause the attorney temporarily suspended from the practice of law.

23. The Panel finds that the threatened injury to the public outweighs whatever damage the proposed order may cause Hutchinson as a result of being temporarily suspended from the practice of law.

24. The harm to the public is discussed above. While Hutchinson states that his attorney fee income is his primary source of income and that the restrictions imposed have caused him great expense, he does not elaborate on what precise personal harm to him would outweigh the potential for irreparable harm to the public. While it is self-evident that the loss of income could be harmful to any practicing attorney, such potential harm is outweighed in this instance by the threat to the public.

25. While the suspension may require Hutchinson's clients to locate new counsel, that inconvenience does not tip the balance in favor of lifting the suspension. Hutchinson has not stated

what, if anything, especially qualifies him for representation of those clients or any reason why other counsel would not be effective for those clients.

26. Any harm that could come to Hutchinson due to his interim suspension would not outweigh the irreparable harm to the public or his clients if he is permitted to continue practicing law despite his pattern of criminal conduct and apparent substance abuse. The risk of injury to the public and his clients is outweighed by the harm claimed by Hutchinson.

27. The third *Tapp* factor is whether the interim suspension is adverse to the public interest.

28. For the reasons stated above, the Panel finds that the interim suspension favors the public interest.

29. The public has a strong interest in the integrity of the legal profession. The public has a strong interest in officers of the court furthering the administration of justice and adhering to the law as a whole. By consistently breaking the law, constantly being the subject of criminal charges over the last seven (7) years, using controlled substances and driving while intoxicated, possessing a firearm and controlled substances together, and generally endangering the public, Hutchinson brings disrepute to the legal profession and erodes the public's confidence in it. The public's interest supports the continued suspension.

30. Neither publicity surrounding Hutchinson's conduct nor the sophistication of Hutchinson's clients weigh against suspension as being in the public interest. Notoriety of the attorney is not a legitimate factor to consider. The Committee's primary mission is to protect the public from harm that may come from any licensed attorney's actions.

31. The fourth and final *Tapp* factor is whether there is a substantial likelihood, based

on all available evidence, that a significant sanction will be imposed on the attorney at the end of any pending disciplinary proceedings.

32. The Panel finds that this factor is met.

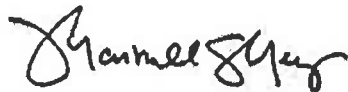
33. Hutchinson has not in this proceeding denied any of the conduct that is alleged on January 13, 2023, including his excessive speed (71 miles per hour in a 45 miles per hour zone), refusal to submit to testing, driving while intoxicated, possession of cocaine, or possession of a firearm. Further, much of this conduct is on video.

34. Hutchinson also does not dispute the conduct outlined in any of the prior instances that contribute to his pattern of prior behavior.

35. Based on the evidence before the Panel in this matter, there is a substantial likelihood that the Office of Professional Conduct will meet its preponderance of the evidence burden in proving that Hutchinson violated the Arkansas Rules of Professional Conduct and a significant sanction is likely to result.

For the reasons stated herein Panel A of the Committee on Professional Conduct concludes that Respondent William Asa Hutchinson III should be, and hereby is, **SUSPENDED** from the practice of law within this jurisdiction for his conduct.

ARKANSAS SUPREME COURT COMMITTEE
ON PROFESSIONAL CONDUCT, PANEL A



BY: _____
Marshall S. Ney, Chair, Panel A

Date: _____
March 29, 2023