

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

IN RE:           **GAYLE D. ZIMMERMAN**  
                    ARKANSAS BAR ID #79144  
                    CPC Docket No. 2015-090

**FINDINGS AND ORDER**

The formal charges of misconduct upon which this Findings and Order is based arose as result of a grievance filed by Attorney Thomas Streetman.

1. Mr. Streetman represented plaintiffs in a civil suit in the Circuit Court of Ashley County, Arkansas. Ms. Zimmerman represented the defendant in the civil suit.

2. Plaintiffs sued defendant for unlawful detainer of a house defendant was renting from plaintiffs. Defendant countersued for breach of contract and recovery of rental money paid.

3. After the litigation was filed, the circuit judges in the district recused from hearing the case. Special Judge Phillip Shirron was appointed to hear the case.

4. After appointment, Judge Shirron contacted Mr. Streetman by telephone on October 1, 2012, and requested a copies of all of the plaintiff's pleadings that had been filed in the matter. Judge Shirron attempted to contact Ms. Zimmerman by telephone, but got a message that she was "not accepting calls at the time". Therefore on October 1, 2012, Judge Shirron sent Ms. Zimmerman a letter advising her that he had attempted to contact her by phone, and requesting that she send him copies of all pleadings filed by defendant and a telephone number where she could be reached or message left during normal business hours. Judge Shirron advised her that he would not waste his time in the future making multiple attempts to contact her at a time when she may be accepting calls.

5. On February 19, 2013, Ms. Zimmerman, who prior to this matter, had never appeared before Judge Shirron, filed a Motion for Recusal of Trial Judge. With her motion, she attached

two supporting exhibits. A copy of the appellate opinion in *Jeffery Charles Elmore vs. State of Arkansas*, 355 Ark. 620; 144 S.W.3d 278 (2001) and an article from a web blog called *The Committee to Expose Dishonest and Incompetent Judges, Attorneys and Public Officials*.

6. In her motion, Ms. Zimmerman, alleged that Judge Shirron's October 1, 2012, letter to her was "unprofessional, demeaning, sarcastic, and totally unprovoked". She also alleged that Judge Shirron had "engaged in outrageous, unprofessional conduct in the past.

7. Ms. Zimmerman attaches and incorporates an article from *The Committee to Expose Dishonest and Incompetent Judges, Attorneys and Public Officials* as proof of Judge Shirron's "outrageous and unprofessional" past conduct. In the article, Judge Shirron is referred to as a "certified moron", "ethical gnome", "knucklehead", "schmuck", "dimwit", and "big time dumb ass".

8. Ms. Zimmerman also alleged in her motion that her client would be unable to receive a "fair and impartial trial" given Judge Shirron's "unprovoked animosity towards counsel and erratic conduct in the past".

9. On February 6, 2013, Judge Shirron mailed Ms. Zimmerman a letter advising her that a hearing would be held February 27, 2013, on plaintiffs' motion and that she had to request a hearing on any motions she had pending. The hearing was held on both plaintiffs' and Ms. Zimmerman's motions. After the hearing, the Order Denying Motion for Recusal of Trial Judge was filed on March 13, 2013.

10. Several other hearings were held related to discovery, with orders being entered.

11. On July 19, 2013, Ms. Zimmerman filed with the Arkansas Supreme Court a Petition for Permissive and Interlocutory Appeal, CV-13-633, on behalf of her client. Among issues that she wished to appeal on, the refusal of Judge Shirron to recuse from the case was also listed.

12. In the petition, Ms. Zimmerman, continued to make accusations about Judge

Shirron's motives and professionalism in presiding over the case. Some of the accusations made by Ms. Zimmerman, included a statement that Judge Shirron was "girded for war", that Judge Shirron became unreasonably angry in the October 1 letter he sent her when he was unable to reach her by telephone, and that Judge Shirron was "angry, hostile and abusive".

13. Ms. Zimmerman states in the petition that she researched cases presided over by Judge Shirron, and discovered a criminal case, *Jeffery Charles Elmore vs. State of Arkansas*, 355 Ark. 620; 144 S.W.3d 278 (2001), that was reversed and remanded because Judge Shirron's wife was a member of the jury. Ms. Zimmerman stated that because of that criminal case, her client would not get a fair trial, even though the criminal case happened years prior to her client's case and her client was not a party to the criminal case.

14. Ms. Zimmerman alleged that Judge Shirron struck pleadings filed by her because "the court was simply assisting in attempting to prevent [client] Mr. Murray and his counsel from trying their case based on the facts".

15. On July 19, 2013, Appellees' filed a Motion to Dismiss Appellant's Petition for Permissive and Interlocutory Appeal.

16. On September 12, 2013, the Arkansas Supreme Court entered its Formal Order denying the Petition for Permissive and Interlocutory Appeal and finding Appellee's Motion to Dismiss moot.

17. On September 25, 2013, Appellant filed a second Interlocutory Appeal, CV-13-839, making the same allegations and attempting to appeal the same orders as appealed in the July 9, 2013, petition previously filed.

18. On September 30, 2013, Ms. Zimmerman's client filed a pro se Motion for Reconsideration of the Formal Order denying the Petition for Permissive and Interlocutory Appeal in CV-13-633.

19. On October 7, 2013, Appellees' filed a Motion to Dismiss Interlocutory Appeal in CV-13-839. Appellees alleged in their petition, along with supporting exhibits, that appellant was "attempting to appeal from the same orders which the court denied when it issued its September 12, 2013, Order.

20. On October 31, 2013, the Court denied the pro se Motion for Reconsideration.

21. On November 30, 2013, the Court entered its Formal Order dismissing the second Interlocutory Appeal, CV-13-839.

22. Ms. Zimmerman filed a Motion to Voluntarily Dismiss/Non-suit their counterclaims. On February 3, 2014, an Order of Dismissal was filed dismissing the defendant's counterclaims without prejudice.

23. No other actions have been taken on the case since the February 3, 2014 order. Upon consideration of the formal complaint and attached exhibit materials and the Arkansas Rules of Professional Conduct, Panel B of the Arkansas Supreme Court Committee on Professional Conduct finds:

1. Ms. Zimmerman's conduct violated Arkansas Rule 1.1 when she filed a second Interlocutory Appeal, CV-13-839, attempting to appeal from the same orders and issues she had appealed in an earlier filed appeal, CV-13-633, knowing that the first appeal was denied by the court. Arkansas Rule 1.1 states that a lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation.

2. Ms. Zimmerman's conduct violated Arkansas Rule 3.5(d) when (a) her filing of a Motion for Recusal of Trial Judge, the attached exhibits, and the use of the language contained therein was intended for the purpose of disrupting the tribunal, (b) her filing of a Petition for Permissive and Interlocutory Appeal, CV-13-633, the attached exhibits, and the use of the

language contained therein was intended for the purpose of disrupting the tribunal, (c) her filing of a second Petition for Interlocutory Appeal, CV-13-839, after denial of the first appeal in CV-13-633 was intended for the purpose of disrupting the tribunal, and (d) her attachment and incorporation of an article from *The Committee to Expose Dishonest and Incompetent Judges, Attorneys and Public Officials*, as proof of Judge Shirron's "outrageous and unprofessional" past conduct. In the article, Judge Shirron is referred to as a "certified moron", "ethical gnome", "knucklehead", "schmuck", "dimwit", and "big time dumb ass". Attachment and incorporation of the article served no purpose and was intended for the purpose of disrupting the tribunal. Arkansas Rule 3.5(d) states that a lawyer shall not engage in conduct intended to disrupt a tribunal.

3. Ms. Zimmerman's conduct violated Arkansas Rule 8.2(a) when (a) her statement in the Motion for Recusal of Trial Judge that Judge Shirron's October 1, 2012, letter to her was "unprofessional, demeaning, sarcastic, and totally unprovoked" was a false statement or made with reckless disregard as to its truth or falsity concerning the integrity of a judge or the court, (b) her statement that Judge Shirron had "engaged in outrageous, unprofessional conduct in the past" was a false statement or made with reckless disregard as to its truth or falsity concerning the integrity of a judge or the court, (c) her attachment and incorporation of an article into her motion for recusal from *The Committee to Expose Dishonest and Incompetent Judges, Attorneys and Public Officials*, as proof of Judge Shirron's "outrageous and unprofessional" past conduct. In the article, Judge Shirron is referred to as a "certified moron," "ethical gnome," "knucklehead," "schmuck," "dimwit," and "big time dumb ass." Her incorporation of the article and the contents of the article into the motion were false statements or made with reckless disregard as to its truth or falsity concerning the integrity of a judge or the court, (d) her statement that her client would be unable to receive a "fair and impartial trial" given Judge

Shirron’s “unprovoked animosity towards counsel and erratic conduct in the past” was a false statement or made with reckless disregard as to its truth or falsity concerning the integrity of a judge or the court, (e) in the Petition for Permissive and Interlocutory Appeal, CV-13-633, Ms. Zimmerman’s statements that Judge Shirron was “girded for war”, that Judge Shirron became unreasonably angry in the October 1 letter he sent her when he was unable to reach her by telephone, and that Judge Shirron was “angry, hostile and abusive” were false statements or made with reckless disregard as to its truth or falsity concerning the integrity of a judge or the court, (f) her statement in CV-13-633, that because of a criminal case, Jeffery Charles Elmore vs. State of Arkansas, 355 Ark. 620; 144 S.W.3d 278 (2001) that Judge Shirron presided over years before the current case involving her client, her client would not get a fair trial, even though neither her or her client were associated with that case was a false statement or made with reckless disregard as to its truth or falsity concerning the integrity of a judge or the court, and (g) her statement in CV-13-633 that Judge Shirron struck pleadings filed by her because “the court was simply assisting in attempting to prevent [client] Mr. Murray and his counsel from trying their case based on the facts,” was a false statement or made with reckless disregard as to its truth or falsity concerning the integrity of a judge or the court. Arkansas Rule 8.2(a) requires that a lawyer not make a statement that the lawyer knows to be false or with reckless disregard as to its truth or falsity concerning the qualifications or integrity of a judge, adjudicatory officer or public legal officer, or of a candidate for election or appointment to judicial or legal office.

4. Ms. Zimmerman’s conduct violated Arkansas Rule 8.4(d) when she filed a second Interlocutory Appeal, CV-13-839, alleging the same orders and allegations knowing that the first appeal she filed, CV-13-633, had been denied by the court, causing the court to expend additional time and effort which would not have been necessary otherwise. Arkansas 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 B, that **GAYLE D. ZIMMERMAN**, Arkansas Bar ID #79144, be, and hereby is, **CAUTIONED** for her conduct in this matter. The sanction was based, in part, on the attorney's lack of any prior disciplinary record. Gayle D. Zimmerman shall also pay costs in the amount of \$50.00 in accordance with Section 18.A. of the Procedures. 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 B

By:/s/ Niki T. Cung, Chair, Panel B

Date: October 19, 2015

Original filed with the Arkansas Supreme Court  
Clerk on November 13, 2015.