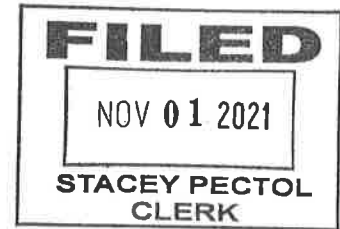


BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT
PANEL B

IN RE: **CHRISTOPHER WESLEY BURKS**
 ARKANSAS BAR ID #2010207
 CPC Docket No. 2021-018



CONSENT FINDINGS & ORDER

The formal charges of misconduct upon which this Consent Findings and Order is based arose from Christopher Wesley Burks' representation of plaintiffs in Pulaski County Circuit Court case 60CV-20-2718, *Hayward Finks, Duane Finks, and Reginald Parks vs Keith Humphrey and City of Little Rock, Arkansas* ("Humphrey et al."). Following Mr. Burks' receipt of the Formal Complaint, Mr. Burks through counsel, entered into discussion with the Executive Director which resulted in an agreement by consent pursuant to Section 20.B of the Arkansas Supreme Court Procedures Regulating Professional Conduct of Attorneys at Law (2011).

1. Burks initiated a civil action for employment discrimination against Little Rock Police Chief Keith Humphrey and the City of Little Rock on April 22, 2020. The case proceeded with discovery and motions filed.

2. The case has also been continuously covered by journalists in print/online media and television news broadcasts.

3. The parties discussed and agreed to entering a protective order.

4. During the scheduling of depositions for witnesses, Burks exchanged emails with attorneys for Humphrey and the City of Little Rock on November 17, 2020. In the emails, Burks agreed to abide by the terms of protective order for all documents he produced and any produced at the deposition that was being scheduled.

5. On November 17, 2020, the Agreed Protective Order was filed of record.

6. Also on November 17, 2020, the deposition of witness Stacey Witherell was held. At that deposition, emails sent from Humphrey to another officer were discussed and submitted as exhibits.

7. On November 24, 2020, Radley Balko, a reporter with the Washington Post, contacted Burks by email. Balko requested a phone interview, on the record, with Burks regarding the lawsuits filed against Humphrey.

8. On November 27, 2020, Joseph Flaherty, a reporter with the Arkansas Democrat Gazette, emailed attorneys for Plaintiffs in another lawsuit filed by Humphrey in Federal District Court, case no. 4:20-cv-01158, *Humphrey vs Fulk et al.* That email was provided to the attorneys in Pulaski County Circuit Court case 60CV-20-2718. In that email, Flaherty advised he had received copies of text messages from Burks on March 31, 2020, that showed communications between Humphrey and then Assistant Chief Alice Fulk. Flaherty wanted to know if Humphrey had any comments or response to the substance of the text messages.

9. On November 28, 2020, Flaherty reported on the emails he received from Burks in an Arkansas Democrat Gazette Article.

10. On November 28, 2020, Burks emailed opposing attorneys, except for Humphrey's attorney, and advised them that he had been contacted by Balko from the Washington Post and that Balko informed Burks that Humphrey had provided documents and text messages to Balko. Burks also made a FOIA request for Humphrey's personnel file records.

11. On December 1, 2020, Humphrey file a Motion for Contempt and For Order to Show cause against Burks for violating the Agreed Protective Order in the case. In the motion, Humphrey alleged Burks released information and documents the parties had agreed were confidential.

12. On December 2, 2020, Burks filed a Response to Motion for Contempt. In the Response, Burks alleged that Humphrey had already publicly released the information by including the information in his contempt motion and Burks also alleged Humphrey released the information to Washington Post reporter Balko.

13. On December 4, 2020, Burks filed his Confidential Declaration of Chris Burks. In his declaration, Burks asserts that he only released the documents and text messages because Balko had told him that Humphrey had already provided him with the information.

14. On December 7, 2020, the City of Little Rock filed its Response to Separate Defendant Keith Humphrey's Motion for Contempt and For Order of to Show Cause. The City of Little Rock agreed in its Response with Humphrey's motion and alleged that Burks had released information in violation of the Agreed Protective Order.

15. On December 7, 2020, Humphrey filed a Reply to Plaintiff's Response to Motion for Contempt and For Order to Show Cause.

16. On December 11, 2020, the Washington Post published an article written by Radley Balko. In that article, Balko addressed the allegation made by Burks that he told Burks that Humphrey had provided him with text messages and documents that were the subject of the contempt action against Burks.

17. Balko stated in his article that he contacted Burks first by email to inquire about an interview. Burks called Balko a short time later and they had an off-the-record phone conversation to establish some background.

18. Balko stated that Burks revealed allegations against Humphrey that he had not heard before and would later learn were false or misleading. When Balko questioned Burks about the

new information, Burks advised Balko that the information came out in a deposition for one of the lawsuits and that deposition had taken place a few days prior to their conversation.

19. Balko stated that he first learned of the depositions from Burks. According to Balko, Burks not only told him about the depositions, but Burks also told Balko about the Agreed Protective Order. Burks advised Balko that he would get the transcripts released so that Balko could read them for himself.

20. In his article, Balko denied the claims Burks made to the court that he told Burks that Humphrey shared documents, texts, emails, and other information that violated the protective order with Balko.

21. On December 15, 2020, Humphrey filed a Supplemental Reply to Plaintiffs' Response to Motion for Contempt and For Order to Show Cause. In this supplemental response, Humphrey discussed the Washington Post article written by Balko.

22. On December 15, 2020, the City of Little Rock filed City of Little Rock's Response to Separate Defendant Keith Humphrey's Supplemental Reply to Plaintiffs' Response to Motion for Contempt and For Order to Show Cause.

23. On December 16, 2020, a hearing was held on the Motion for Contempt and for Order to Show Cause. The court found that Burks had provided two newspaper organizations with text messages that the parties agreed were confidential under the Agreed Protective Order. The court found Burks in contempt of court of the Agreed Protective Order and in lieu of disqualification, allowed Burks to withdraw his representation as attorney for Plaintiffs in the matter. The Order memorializing the court's ruling was filed December 17, 2020.

Upon consideration of the Formal Complaint and attached exhibit materials, admissions made by the Respondent Attorney, the terms of the written consent, the approval of Panel B of

the Committee on Professional Conduct, and the Arkansas Rules of Professional Conduct, the Committee on Professional Conduct finds:

1. Burks's conduct violated Rule 8.4(c) when (a) he emailed opposing attorneys, except for Humphrey's attorney, and falsely advised them he had been contacted by Balko from the Washington Post and Balko informed Burks that Humphrey had provided documents and text messages to Balko and (b) he falsely asserted in both his Response to Motion for Contempt and in his sworn Confidential Declaration of Chris Burks filed with the court that Radley Balko of the Washington Post told him that Chief Humphrey shared documents, texts, emails, and other information with Balko that violated the Agreed Protective Order in Pulaski County Circuit Court case 60CV-20-2718. Arkansas Rule 8.4(c) states it is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

2. Burks' conduct violated Rule 8.4(d) when (a) he falsely asserted in both his Response to Motion for Contempt and in his sworn Confidential Declaration of Chris Burks filed with the court that Radley Balko of the Washington Post told him that Chief Humphrey shared documents, texts, emails, and other information with Balko that violated the Agreed Protective Order in Pulaski County Circuit Court case 60CV-20-2718 and (b) he violated the courts Agreed Order of Protection which required the court to expend additional time and resources to address the matter. Burks's actions caused a delay in the matter as his behavior caused the court to have to suspend the matter to give plaintiffs time to hire new counsel. Arkansas Rule 8.4(d) states it is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice.

WHEREFORE, in accordance with the consent to discipline presented by Mr. Burks and the Executive Director, it is the decision and order of the Supreme Court Committee on

Professional Conduct, acting through its authorized Panel B, that Christopher Wesley Burks, Arkansas Bar ID #2010207, be and hereby is **CAUTIONED** for his conduct in this matter, and he agrees and is ordered to pay \$50.00 (FIFTY DOLLARS) costs. 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 Consent 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: 
David P. Glover, Chair, Panel B

Date: 11/1/01