

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

IN RE: **JIMMIE L. WILSON**
Arkansas Bar ID # 73128
CPC Docket No. 2006-042

FINDINGS AND ORDER

On April 3, 2006, in Arkansas Supreme Court No. 04-1053, styled *Jimmie L. Wilson v. Eugene Sayre, et al.*, Jimmie L. Wilson filed a pleading entitled “Suggestions of Disqualification; Request for Recusal of the Court *En Banc*; Reconsideration of the Totality of the Disposition of the Appeal; Withdrawal of Any Mandate” with accompanying Brief in Support . By Order made April 27, 2006, denying the disqualification motion, the Court referred Mr. Wilson to the Committee for consideration of disciplinary action.

The formal charges of misconduct upon which this Findings and Order is based were developed from information in Case No. 04-1053. The information related to litigation conducted by Respondent Jimmie L. Wilson, an attorney practicing primarily in Phillips County, Arkansas. On June 9, 2006, Respondent was served with a formal complaint, to which he filed a response. On October 5, 2006, Respondent was served with a First Amended Complaint to which he filed a response. A ballot vote was conducted by Panel A. Mr. Wilson requested a public hearing. That hearing was conducted April 20, 2007, before Panel B, with Kenneth Mourton from Panel C substituting in place of Henry Hodges, the regular Panel B Chair, who recused. Valerie L. Kelly, Panel B Vice Chair, therefore served as Acting Chair of the hearing. Other members of the hearing Panel were Dr. Rose M. Word, Sylvia Orton, Michael Cogbill, John Rush, and Harry Truman Moore.

This matter arises from the “Lakeview School Funding Case,” *Lakeview, et al. v. Huckabee et al.*, 351 Ark. 31, 91 S.W.3d 472 (2002), (hereafter “*Lakeview*”), in which Mr. Wilson has participated as an attorney for many years, along with other attorneys, representing the Lakeview School District. In the 2002 *Lakeview* opinion, the Arkansas Supreme Court awarded attorneys fees of \$3,397,050.00, collectively, to the attorneys for Lakeview. There were expert witness payment issues that were unresolved from the *Lakeview* case for plaintiff Lakeview’s attorneys.

Problems arose with the distribution of the *Lakeview* attorneys fees, leading to the filing of *Jimmie L. Wilson v. Eugene G. Sayre et al.* in Pulaski Circuit Court in 2003 as No. CV03-6818. The decision in that case was appealed by Mr. Wilson and the record was lodged in the Arkansas Supreme Court on October 6, 2004, as No. 04-1053.

In his points on appeal and in his brief Mr. Wilson indicated, or allowed the impression to be taken from his materials, that he was appealing the trial court’s division of legal fees in the *Lakeview* case, by which Wilson was individually awarded \$636,518.87. On or about August 30, 2005, Wilson obtained the check payable to him for that amount from the Pulaski County Circuit Clerk and negotiated same, without informing opposing appellate counsel or the Supreme Court of his action.

Justice Annabelle Clinton Imber disqualified in the case by letter dated and filed on May 10, 2005, in keeping with her consistent recusal from all aspects of the Lakeview case, in which she had previously been involved as a trial judge. Justice Robert L. Brown disqualified from the case by letter dated and filed on November 3, 2005.

On October 3, 2005, Mr. Wilson filed a request for oral argument. On October 27, 2005,

the Court made its Order denying his request for oral argument, with Justices Brown and Imber not participating in the Order. Chief Justice Hannah and Justice Corbin would grant the motion for oral argument. The face of this Order indicates that Justices Glaze, Dickey, and Gunter apparently voted to deny the motion

Upon learning of Mr. Wilson's action in cashing the \$636,518.87 check, on November 9, 2005, certain of the appellees filed a Motion to Dismiss Appellant's Appeal As Moot, alleging Wilson's "election of remedies" in cashing the check. The Court agreed, granted the Motion, and dismissed the appeal by Order issued December 8, 2005. Mr. Wilson did not correct with the Court the false impression of material fact he advanced in his appeal, and left it uncorrected, that he had not accepted or received the benefit of the trial court's award of attorney's fees to him. Justices Imber and Brown did not participate in this Order. On December 15, 2005, Mr. Wilson filed a motion for reconsideration, followed with the filing of an Amended Motion for Reconsideration on December 27, 2005.

On January 3, 2006, certain of the appellees filed a motion for fees and costs as sanctions. On February 16, 2006, the Court granted the motion, with Justices Brown and Imber not participating, and awarded costs and fees of about \$21,484 to appellees' attorneys.

On April 3, 2006, Mr. Wilson filed a pleading titled "Suggestions of Disqualification; Request for Recusal of the Court *En Banc*; Reconsideration of the Totality of the Disposition of the Appeal; Withdrawal of Any Mandate," with an accompanying Brief in Support. By Order made April 27, 2006, because of the disqualification motion and brief, the Court referred Mr. Wilson to the Committee for consideration of disciplinary action.

Upon consideration of the First Amended Complaint and attached exhibit materials, the

Response to it, the evidence produced at the hearing, and other matters before it, and the Arkansas Model Rules of Professional Conduct, Panel B of the Arkansas Supreme Court Committee on Professional Conduct:

A. Unanimously found Mr. Wilson's conduct violated Rule 3.3(a)(1) in that he failed to correct a false statement of material fact previously made by him to the Arkansas Supreme Court in No. 04-1053, an appeal record lodged by him *pro se* on October 6, 2004. In his points on appeal and in his brief he indicated, or allowed the impression to be taken from his materials, that he was appealing the trial court's division of legal fees in the *Lakeview* case, by which he was individually awarded \$636,518.87. On or about August 30, 2005, Mr. Wilson obtained the check payable to him for that amount in the hands of the Pulaski County Circuit Clerk and negotiated same, without informing opposing appellate counsel or the Supreme Court of his action. Upon learning of Mr. Wilson's action regarding this check, certain appellees filed a Motion to Dismiss Appellant's Appeal As Moot on November 9, 2005, on the basis of Mr. Wilson's "election of remedies" in cashing the check. The Court agreed, granted the Motion, and dismissed the appeal. Mr. Wilson did not correct with the Court the false impression of material fact he advanced in his appeal, and left it uncorrected, that he had not accepted or received the benefit of the trial court's award of attorney's fees to him. Arkansas Rule 3.3(a) requires that a lawyer shall not knowingly: (1) make a false statement of fact or law to a tribunal; or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer;.... If a lawyer, the lawyer's client, or a witness called by the lawyer, has offered material evidence and the lawyer comes to know of its falsity, the lawyer shall take reasonable remedial measures including, if necessary, disclosure to the tribunal.

B.1. By a vote of 6-1 (with Moore voting that a violation occurred) found that Mr. Wilson's conduct did not violate this Rule 3.4(c) factual allegation of the formal disciplinary complaint.

B.2 By a vote of 4-3 (with Cogbill, Mourton, Moore and Orton voting yes) found that Mr. Wilson's conduct violated Rule 3.4(c) in that by his overall tenor and the intemperate, disrespectful, strident, and offensive statements in his pleadings he violated Rule 1-5 of the Rules of the Arkansas Supreme Court (2006 Supp.), an obligation he accepted under the rules of the tribunal, the Arkansas Supreme Court, as an attorney licensed to practice law in Arkansas. Arkansas Rule 3.4(c) requires that a lawyer shall not knowingly disobey an obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists.

C. Unanimously found that Mr. Wilson's conduct violated Rule 8.4(c) in that he engaged in conduct involving deceit or misrepresentation when he failed to correct a false statement of material fact previously made by him to the Arkansas Supreme Court in No. 04-1053, an appeal record lodged by Wilson *pro se* on October 6, 2004. In his points on appeal and in his brief he indicated, or allowed the impression to be taken from his materials, that he was appealing the trial court's division of legal fees in the *Lakeview* case, by which he was individually awarded \$636,518.87. On or about August 30, 2005, Mr. Wilson obtained the check payable to him for that amount in the hands of the Pulaski County Circuit Clerk and negotiated same, without informing opposing appellate counsel or the Supreme Court of his action. Upon learning of his action, certain appellees filed a Motion to Dismiss Appellant's Appeal As Moot on November 9, 2005, alleging Wilson's "election of remedies" in cashing the check. The Court agreed, granted the Motion, and dismissed the appeal. Wilson did not correct with the Court or opposing

appellate counsel the false impression of material fact he advanced in his appeal, and left uncorrected, that he had not accepted or received the benefit of the trial court's award of attorney's fees to him. Arkansas Rule 8.4(c) provides that it is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

D.1. By a vote of 6-1 (with Kelly voting no), found that Mr. Wilson violated Rule 8.4(d) in that he engaged in conduct that was disrespectful, intemperate, strident, and contemptuous of the Arkansas Supreme Court as a body, and of its members, when he stated the Court had engaged in "purposeful discrimination against appellant (him) on the basis of his race first and foremost...."

D.2. By a vote of 4-3 (with Cogbill, Rush, Mourton and Moore voting yes) found that Mr. Wilson violated Rule 8.4(d) in the he engaged in conduct that was disrespectful, intemperate, strident, and contemptuous of the Arkansas Supreme Court as a body, and of its members, when he stated that the Court had a "history of unfairness to African-American lawyers involved in disciplinary proceedings...."

D.3. By a vote of 6-1 (with Orton voting that a violation occurred) found that Mr. Wilson's conduct did not violate this Rule 8.4(d) factual allegation of the formal disciplinary complaint.

D.4. By a vote of 6-1 (with Kelly voting no), found Mr. Wilson's conduct violated Rule 8.4(d) when he engaged in conduct that was disrespectful, intemperate, strident, and contemptuous of the Arkansas Supreme Court as a body, and of its members, when he stated that the Court, "[A]cted with such hostility and prejudice toward the appellant, it is rational to believe based upon this court's history in the arena of the race question."

D.5. By a unanimous vote, found Mr. Wilson violated Rule 8.4(d) in that he engaged in conduct that was disrespectful, intemperate, strident, and contemptuous of a named member of the Arkansas Supreme Court, when he stated “That in every instance in which appellant has been before the court and there has been an opportunity for **Justice Glaze, particularly**, to render an opinion regarding the rights of the appellant and other African-American lawyers, judges and African-American litigants on constitutional and civil rights issues have been in the extremely negative response coupled with antagonism and a prejudice that is not only the belief of the appellant, **but is accepted as a fact in discourse of conversational exchange between African-American Lawyers as whole within this state.**” (Bolded emphasis added by Wilson in his original pleading to the Court.)

D.6. By a unanimous vote, found Mr. Wilson violated Rule 8.4(d) in that he engaged in conduct that was disrespectful, intemperate, strident, and contemptuous of both the Court and a named member of the Arkansas Supreme Court, when he stated, “**That the combinations of the demonstrative prejudices of this court and the fact that one of this court members is up for re-election and appellee to the instant lawsuit is a campaign officer in his re-election creates a TAINT that envelopes the whole institution as it relates to its ability to give due process to the appellant; Judge Brown is running for re-election and one of his campaign officers indeed a person who is soliciting funds for the benefit of Justice Brown election is Richard Hatfield an appellee in this case and it is believed that the court curtailed the full appellate review in this matter in order to protect one of its members re-election official from facing a review before this court for participation in the conduct alleged in the instant cause, thus causing embarrassment to one of it’s members - even though that member had disqualified**

from this case he was still a member of this Arkansas Supreme Court as an institution. See attached Joint Exhibit 1.” (Bolded emphasis added by Mr. Wilson in his original pleading to the Court.)

D.7. By a vote of 4-3 (with Kelly, Cogbill, Mourton and Word voting that no violation occurred) found that Mr. Wilson’s conduct did not violate this Rule 8.4(d) factual allegation of the formal disciplinary complaint.

D.8. By a unanimous vote, found Mr. Wilson violated Rule 8.4(d) in that he engaged in conduct that was disrespectful, intemperate, strident, and contemptuous of the Arkansas Supreme Court as a body, and of its members, when he stated, “That these African-American lawyers noted in paragraph 32 are the latest in a series of African-American lawyers who have been held-up to public ridicule by this court or its alter-ego the Arkansas Supreme Court Committee on Professional Conduct as an example by this court determined effort to “clean-up” the bar, are treated in a 380° difference from Caucasian lawyers and the Caucasian judge involved in the instant case.”

D.9. By a vote of 6-1 (with Rush voting that a violation occurred) found that Mr. Wilson’s conduct did not violate this Rule 8.4(d) factual allegation of the formal disciplinary complaint.

D.10. By a unanimous vote, found Mr. Wilson violated Rule 8.4(d) in that he engaged in conduct that was disrespectful, intemperate, strident, and contemptuous of the Arkansas Supreme Court as a body, and of its members, when he stated, “*That the disposition of the appellant’s causes that have appeared before the court are based upon out-of-court; extra-judicial; political and racial consideration having nothing to do with the cases aforementioned that*

appeared before the court and have nothing to do with the merit of the instant case.” (Bolded, italicized emphasis added by Mr. Wilson in his original pleading to the Court.)

D.11. By a unanimous vote, found Mr. Wilson violated Rule 8.4(d) in that he engaged in conduct that was disrespectful, intemperate, strident, and contemptuous of the Arkansas Supreme Court as a body, and of its members, when he stated in his Brief, “This court **honors** through its replications and immortalizations of the confederate supreme court of arkansas 1861-1865, that which cost African-Americans two-hundred plus years of slavery prior to the Emancipation Proclamation and the 13th Amendment to the Unites State Constitution. **Racially motivated horrors, miseries, rapes, molestations and deprivations** are the legacy which this court embraces through the ceremonial exaltation of this group of **traitors**.... This present Arkansas Supreme Court through the portrayal of pictures, plaques and symbols of pride and recognition of the confederate supreme court of arkansas found in the halls of the present Arkansas Supreme Court Building says a loud “Amen” to the racism embraced by this period of jurisprudence in this state.” (Bolded emphasis added by Mr. Wilson in his original pleading to the Court.)

D.12. By a unanimous vote, found Mr. Wilson violated Rule 8.4(d) in that he engaged in conduct that was disrespectful, intemperate, strident, and contemptuous of the Arkansas Supreme Court as a body, and of its members, when he stated in his Brief, “This court like every other court in the United States of America has never been a friend to African-American citizens concepts of constitutional rights, far the less, an enforcer of those concepts.”

D.13. By a unanimous vote, found Mr. Wilson violated Rule 8.4(d) in that he engaged in conduct that was disrespectful, intemperate, strident, and contemptuous of the Arkansas Supreme Court as a body, and of its members, when he stated in his Brief, “So a dual standard of ethics is

approved by the court one relating to African-American lawyers who are accused of taking their clients monies and one entirely the opposite applies to “white” lawyers who have been accused of taking or stealing their clients monies.”

D.14. By a unanimous vote, found Mr. Wilson did not violate this Rule 8.4(d) factual allegation of the formal disciplinary complaint. allegation.

D.15. By a unanimous vote, found Mr. Wilson violated Rule 8.4(d) in that he engaged in conduct that was disrespectful, intemperate, strident, and contemptuous of the Arkansas Supreme Court as a body, and of its members, when he stated in his Brief, **“This court has not experienced one moment of what it means to be African-Americans in this country and having not spent one moment walking in the shoes of African-American citizens - having excluded itself from even minimum experiences with African-Americans while on the bench - there is absolutely no means by which this court can have any sensitivity of “justice” for the descendants of Slaves. This court while still sitting on the ”porch” of the master-a “porch” called the Arkansas Supreme Court still maintains these historic distinctions between itself and persons like the appellant. This court still approves and fosters a system of exclusivity in the membership of the court i.e. while there is no sign “white only” visible it is there nevertheless. This court’s approval of the systematic exclusions of African-Americans from participating in the product that it characterizes as “justice” is surreal.”** (Bolded emphasis added by Mr. Wilson in his original pleading to the Court.)

D.16. By a unanimous vote, found Mr. Wilson did not violate this Rule 8.4(d) factual allegation of the formal disciplinary complaint.

D.17. By a unanimous vote, found Mr. Wilson violated Rule 8.4(d) in that he engaged in conduct that was disrespectful, intemperate, strident, and contemptuous of the Arkansas Supreme Court as a body, and of its members, when he submitted into the record the entire contents of Exhibit 9 to the First Amended Complaint, being his pleadings titled “Suggestions of Disqualification; Request for Recusal of the Court *En Banc*; Reconsideration of the Totality of the Disposition of the Appeal; Withdrawal of Any Mandate” and his brief in support of same, the offensive and disrespectful tenor of which pervades the entire document.

Arkansas Rule 8.4(d) provides that it is professional misconduct for a lawyer to 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, at hearing, that **JIMMIE L. WILSON**, Arkansas Bar ID# 73128, be, and hereby is, **REPRIMANDED** for his conduct in this matter, and he is ordered to pay \$150.00 Committee costs, which includes the basic case cost of \$50.00 and the court reporter’s charge of \$100.00 for the hearing. 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: _____
Valerie L. Kelly, Vice Chair &
Acting Hearing Chair, Panel B

Date: _____

