

SUPREME COURT OF ARKANSAS

No. 08-73

STARK LIGON, EXECUTIVE
DIRECTOR OF THE SUPREME
COURT COMMITTEE ON
PROFESSIONAL CONDUCT

PETITIONER,

VS.

OSCAR AMOS STILLEY

RESPONDENT,

Opinion Delivered November 4, 2010

AN ORIGINAL ACTION FOR
DISBARMENT UNDER THE
PROCEDURES REGULATING THE
PROFESSIONAL CONDUCT OF
ATTORNEYS AT LAW, HON. JOHN
R. LINEBERGER, SPECIAL JUDGE

ORDER OF DISBARMENT
ENTERED.

RONALD L. SHEFFIELD, Associate Justice

Stark Ligon, Executive Director of the Supreme Court Committee on Professional Conduct (“the Committee”), brings this original action to disbar attorney Oscar Amos Stilley, Ark. Bar No. 91096. Our jurisdiction is pursuant to Ark. Sup. Ct. R. 1-2(a)(5) (2010). We adopt the findings of fact and conclusions of law entered by the special judge and agree that the appropriate sanction is disbarment.¹

I. *Procedural History*

¹The findings of fact and conclusions of law, entered by the special judge on April 22, 2009, are attached as an appendix to this opinion. The appendix is attached to the official electronically reported opinion and the opinion on file in the Supreme Court Clerk’s Office.

On October 29, 2004, then Circuit Judge James R. Marschewski referred Stilley to the Committee for possible ethics violations (CPC No. 2006-067, “the Marschewski Complaint”). On December 14, 2007, after hearing the matter, Panel B of the Committee voted to initiate disbarment proceedings against Stilley. The panel members also voted to place him on interim suspension pending the conclusion of such proceedings. An order of suspension was filed with the clerk of this court on December 27, 2007.

Ligon subsequently filed a petition for disbarment on January 16, 2008 and alleged twenty-eight violations of the Rules of Professional Conduct (“Rules”). The petition raised two additional allegations related to Stilley’s “overall fitness” to hold a law license. Stilley responded to the petition on March 3, 2008.

By per curiam order on April 15, 2008, we appointed Special Judge John Lineberger to hear the disbarment petition and to provide the court with findings of fact, conclusions of law, and recommendation of an appropriate sanction. *Ligon v. Stilley*, 373 Ark. App’x 675, 283 S.W.3d 185 (2008) (per curiam).

On June 20, 2008, Panel B authorized disbarment proceedings related to a subsequent complaint filed against Stilley by Circuit Judge Stephen Tabor, (CPC 2007-062, “the Tabor Complaint”). On June 27, 2008, Ligon filed a first amended/supplement petition for disbarment based on the Tabor Complaint. The amended petition raised nine additional counts for disbarment and ten additional allegations related to Stilley’s fitness to hold a law license.

Throughout the proceedings before the special judge, Stilley filed numerous motions,

which will be addressed in this opinion as they are relevant. On April 22, 2009, following a three-day hearing on December 8, 9, and 10, 2008, at which he heard testimony and received evidence, the special judge entered findings of fact and conclusions of law. The order was one hundred and nineteen pages in length and found that Ligon had met his burden of proof with respect to the thirty-two counts charged in the petition for disbarment and the amended petition for disbarment.

On May 21, 2009, the special judge heard testimony and received evidence relevant to a determination of the appropriate sanction. On August 6, 2009, an order recommending disbarment was filed. We are now considering the recommendation of disbarment.

II. *Standard of Review*

The authority to regulate the practice of law arises from the Arkansas Constitution, specifically amendment 28 and amendment 80, section 4. The power to regulate the practice of law is also an inherent power of the courts. *See, e.g., Ligon v. McCullough*, 2009 Ark. 165A, 303 S.W.3d 78; *see also In re Anderson*, 312 Ark. 447, 851 S.W.2d 408 (1993); *Hurst v. Bar Rules Comm.*, 202 Ark. 1101, 155 S.W.2d 697 (1941); *Beene v. State*, 22 Ark. 149 (1860). The Procedures Regulating Professional Conduct (“Procedures”) were promulgated by this court and govern attorney discipline. *See* P. Reg. Prof'l Conduct § 1(A) (2010) (“These Procedures are promulgated for the purpose of regulating the professional conduct of attorneys at law and shall apply to complaints filed and formal complaints instituted against attorneys . . .”).

Under section 13 of the Procedures, the process for a disbarment action, as relevant

to the instant matter, is as follows:

(A) An action for disbarment shall be filed as an original action with the Clerk of the Supreme Court. Upon such filing, the Arkansas Supreme Court, pursuant to Amendment 28 of the Arkansas Constitution, shall assign a special judge to preside over the disbarment proceedings. . . . In disbarment suits, the action shall proceed as an action between the Executive Director and the respondent. Proceedings shall be held in compliance with the Arkansas Rules of Civil Procedure and the Arkansas Rules of Evidence, and trial shall be had without a jury.

(B) The judge shall first hear all evidence relevant to the alleged misconduct and shall then make a determination as to whether the allegations have been proven. Upon a finding of misconduct, the judge shall then hear all evidence relevant to an appropriate sanction to be imposed, including evidence related to the factors listed in Section 19 and the aggravating and mitigating factors set out in the American Bar Association's Model Standards for Imposing Lawyer Sanctions, §§ 9.22 and 9.32(1992). *See Wilson v. Neal*, 332 Ark. 148, 964 S.W.2d 199 (1998).

(C) The judge shall make findings of fact and conclusions of law with respect to the alleged misconduct of the respondent attorney and the imposition of sanctions, including the factors discussed in subsection 13(B). . . . The judge shall make a recommendation as to the appropriate sanction from those set out in Section 17(D).

(D) The findings of fact, conclusions of law, and recommendation of an appropriate sanction shall be filed with the Clerk of the Supreme Court along with a transcript and the record of the proceedings. Upon the filing, the parties shall file briefs as in other cases. The findings of fact shall be accepted by the Supreme Court unless clearly erroneous. The Supreme Court shall impose the appropriate sanction, if any, as the evidence may warrant. In imposing the sanction of suspension, the attorney may be suspended for a period not exceeding five (5) years. There is no appeal from the decision of the Supreme Court except as may be available under federal law.

Id. § 13.

Section 1(C) of the Procedures states that attorney disciplinary proceedings are neither civil nor criminal in nature but are *sui generis*, meaning of their own kind. *See id.* § 1(C); *see also Ligon v. Dunklin*, 368 Ark. 443, 247 S.W.3d 498 (2007). We will accept the judge's

findings of fact unless they are clearly erroneous, and we impose the appropriate sanction as warranted by the evidence. P. Reg. Prof'l Conduct § 1(C); *see also McCullough*, 2009 Ark. 165A, 303 S.W.3d 78. A finding is clearly erroneous when, although there is evidence to support it, the reviewing court on the entire evidence is left with a definite and firm conviction that a mistake has been committed. *McCullough*, 2009 Ark. 165A, 303 S.W.3d 78; *see also Ligon v. Stewart*, 369 Ark. 380, 255 S.W.3d 435 (2007).

Because the special judge's findings are not clearly erroneous, we adopt them in full. Further, we agree with the special judge that disbarment is the appropriate sanction given the serious and widespread nature of Stilley's professional misconduct.

III. *Evidence Supports the Special Judge's Findings and Recommendation*

For his first point on appeal, Stilley contends that there was a "complete and total absence of evidence in support of [Ligon's] claims." Stilley urges that the special judge erred in recommending disbarment under the circumstances. Ligon responds that Stilley has failed "to address the overwhelming factual evidence in the record against him and the Special Judge's carefully reasoned and fully-supported findings as to guilt on all thirty-two charges of misconduct." Ligon argues instead that Stilley's arguments relate more to procedure.

A. Underlying Facts

The facts giving rise to this disbarment proceeding are complex and have been set forth in multiple previous cases. The essence of the charges is that Stilley attempted to relitigate issues that had previously been decided by filing multiple lawsuits in state and federal courts.

In doing so, it is alleged that Stilley was disrespectful toward the courts and toward individual judges; was repeatedly sanctioned under Rule 11; threatened to report a circuit judge and opposing counsel to the prosecuting attorney's office and to the professional misconduct committee if they did not comply with his demands; personally sued various judges and justices after they ruled against him; withheld material information from the court; directly violated court orders; and repeatedly attempted to be admitted to practice before federal courts without disclosing his disciplinary history in Arkansas.

In 2002, Stilley filed a complaint in the Sebastian County Circuit Court on behalf of his client, John Parker, against the following parties: the county judge; the county collector; and the county treasurer; the Fort Smith School District; Westark Community College, a/k/a University of Arkansas at Fort Smith; the City of Fort Smith; and Sebastian County. The complaint alleged that Act 758 of 1995 violated amendment 59 to the Arkansas Constitution and that the defendants were imposing illegal taxes on the plaintiff and other similarly-situated taxpayers. Circuit Judge Marschewski granted the defendants' motion for summary judgment on grounds that *res judicata* barred the lawsuit because the claims raised were litigated in *Elzea v. Perry*, 340 Ark. 588, 12 S.W.3d 213 (2000). Judge Marschewski also imposed Rule 11 sanctions against Stilley after finding that he was the attorney in the *Elzea* case and had, therefore, previously filed an identical complaint that resulted in summary judgment and was affirmed on appeal. Parker appealed, and this court affirmed the grant of summary judgment and the Rule 11 sanctions in *Parker v. Perry*, 355 Ark. 97, 131 S.W.3d 338 (2003).

In July 2004, the Fort Smith School District, one of the defendants in *Parker*, filed a

notice of noncompliance in circuit court, and in August, it filed a motion to enforce Rule 11 sanctions. A hearing was held on September 22, 2004, at which Stilley was directed by the court to provide information regarding his finances in order to determine if he was financially able to comply with the Rule 11 sanctions. Stilley then filed a complaint in federal court against Judge Marschewski, opposing counsel, and the Justices of the Arkansas Supreme Court, alleging that his due-process and equal-protection rights were violated and that Judge Marschewski and the Arkansas Supreme Court Justices were biased against him.²

In response to a motion for contempt filed in circuit court regarding the sanctions in the *Parker v. Perry* matter, Stilley sent a letter to Judge Marschewski wherein he alleged that the sanction order was illegal. Stilley stated that he “would prefer not to report [the judge’s] conduct to the Committee on Professional Conduct or to the judicial authorities,” asked Judge Marschewski to “provide [him] with a basis for not filing a report with the appropriate professional authorities for judges and lawyers,” and concluded that if he did not respond, Stilley would “also file a criminal complaint with the Sebastian County Prosecutor’s office.”³

²This complaint was dismissed by the federal district court, and the judge imposed Rule 11 sanctions against Stilley, finding that “Mr. Stilley has pursued, and continues to pursue, this lawsuit for improper purposes. *Stilley v. Marschewski*, CIV-04-2225 GTE (W. Dist. Ark. May 18, 2005). Stilley appealed the imposition of sanctions, and the Eighth Circuit Court of Appeals affirmed. *Stilley v. Marschewski*, No. 05-2816 (8th Cir. 2006).

³Stilley filed a complaint against Judge Marschewski with the Arkansas Judicial Discipline and Disability Commission and the Supreme Court Committee on Professional Conduct, both of which were dismissed. Stilley also filled out a warrant information sheet with the Sebastian County Prosecuting Attorney; a warrant was not issued.

Stilley sent a similar letter to James M. “Mitch” Llewellyn, counsel for the Fort Smith

Judge Marschewski forwarded Stillely's letter to the Committee and asked it to "take whatever action [it] think[s] is necessary." Judge Marschewski also forwarded the letter to the Judicial Discipline and Disability Commission to take any appropriate action against him. In closing, Judge Marschewski stated: "I do not mind Mr. Stillely filing any complaint against me that he cares to file, but, what I do object to is being threatened with an ethics complaint or a criminal complaint unless I do what he thinks is appropriate." This letter caused the Committee to open an investigation in the Marschewski Complaint, which led to the filing of the initial petition for disbarment.⁴

Judge Marschewski held another hearing on the motion for contempt on January 14, 2005, after which he found Stillely in contempt and entered an order directing him to serve thirty days in jail and to pay a fine of \$50 per day until he complied with the court's order. On March 2, 2007, Stillely filed a motion for stay of the contempt order and for writ of habeas corpus in federal court. On March 14, 2007, Judge Stephen Tabor, as successor to Judge Marschewski, held a hearing on the Parker defendants' amended motion to enforce sanctions. Judge Tabor told Stillely that the matters which led to the motion to enforce sanctions would not be relitigated. Judge Tabor also informed Stillely that he would be unavailable for a few

Public School District, and counsel for the University of Arkansas at Fort Smith, Jr., Walton Marraus. When neither responded, Stillely filed grievances against each with the Committee on Professional Conduct. The complaints were likewise dismissed.

⁴Stillely subsequently filed a motion asking Judge Marschewski to recuse, which was denied. After filing various other pleadings, Stillely appealed the judge's decision not to recuse to this court, and we affirmed. *Stillely v. Fort Smith Sch. Dist.*, 367 Ark. 193, 238 S.W.3d 902 (2006).

days due to a family emergency and would issue his ruling on the motion to enforce sanctions at a hearing on March 26, 2007.

On March 5, 2007, in violation of Judge Tabor's directive not to relitigate issues, Stilley issued subpoenas to take the deposition of numerous individuals, including Judge Marschewski. Judge Tabor then ordered that Stilley be jailed until he complied with Judge Marschewski's order and subsequently held him in contempt for failing to comply with his directives and sentenced him to thirty additional days in jail. On May 8, 2007, Judge Tabor also referred Stilley to the Committee. His referral was the Tabor Complaint and led to the amended petition for disbarment.

Another instance in which Stilley attempted to litigate issues that had been previously decided involved his representation of his client Buck Jones. In 2002, Stilley entered an appearance on behalf of Jones and filed a pleading styled as a "Cross Claim Complaint," in which he raised certain constitutional claims. The circuit judge dismissed the pleading, finding that an opinion against Jones had already been entered and that the pleading filed by Stilley was a compulsory counterclaim that should have been raised during the trial. This court affirmed. *Jones v. Double "D" Props., Inc.*, 352 Ark. 39, 98 S.W.3d 405 (2003) (*Jones I*). After the mandate issued in *Jones I*, the prevailing party, Double "D" Properties, Inc., filed a petition asking the circuit court to release funds posted as a supersedeas bond by Jones and his wife, Robbie Jones. Stilley, acting on behalf of the Joneses, responded and filed a motion seeking permission to file an illegal-exaction complaint. The circuit court denied the motion

in reliance on *Jones I*, and this court again affirmed. *Jones v. Double “D” Props., Inc.*, 357 Ark. 148, 161 S.W.3d 839 (2004) (*Jones II*).

On October 5, 2004, the Joneses filed a “pro se” complaint in federal court, naming Double “D” Properties, Inc.; the Arkansas State Land Commissioner; the Sebastian County Judge; the Sebastian County Collector; the Sebastian County Treasurer, the Fort Smith School Board members; the University of Arkansas at Fort Smith and its attorney; the City of Fort Smith; and each Justice of the Arkansas Supreme Court as defendants (“the federal Jones case”). The complaint raised the same claims that had been decided in *Jones I* and *Jones II*. In addition, it alleged that the Justices of the Arkansas Supreme Court deprived the Joneses of due process and “a competent tribunal” as a result of “passion and prejudice . . . against Oscar Stilley.”

In a subsequent deposition, Buck Jones stated that Stilley had been his attorney when the federal Jones complaint was filed and that Stilley typed and otherwise prepared the complaint. At a contempt hearing in the Sebastian County Circuit Court in January 2005, Stilley was asked about his participation in the preparation of the pleadings in the federal Jones case. He responded that he typed a lot of the documents and that “to his knowledge” Buck Jones did not type any part of the complaint. Stilley finally concluded that he “assisted Mr. Jones materially in the preparation of that complaint.”

Finally, in a previous proceeding before the Committee, Stilley was found to have violated four provisions of the Rules, and a six-month suspension of his law license was recommended. This court affirmed in *Stilley v. Supreme Court Committee on Professional*

Conduct, 370 Ark. 294, 259 S.W.3d 395 (2007). The suspension was stayed during the pendency of Stilley's petition for writ of certiorari to the United States Supreme Court, which was subsequently denied. *Stilley v. Supreme Court of Ark. Comm. on Prof'l Conduct*, 128 S. Ct. 1248 (U.S. Feb. 19, 2008). Despite this history, Stilley filed multiple petitions for admission to practice pro hac vice in various federal courts without disclosing his disciplinary record in Arkansas. Furthermore, when his record was brought to the attention of the federal courts, Stilley repeatedly attempted to relitigate the issues giving rise to his state disciplinary sanctions.

B. Charges

In the initial petition for disbarment, Ligon charged Stilley with the following:

- One violation of Rule 3.1, which states

A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis in law and fact for doing so that is not frivolous, which includes a good faith argument for an extension, modification or reversal of existing law. A lawyer for the defendant in a criminal proceeding, or a respondent in a proceeding that could result in incarceration, may nevertheless so defend the proceeding as to require that every element of the case be established.

- One violation of Rule 3.3(a), which states

(a) 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;

(2) fail to disclose to the tribunal legal authority in the controlling jurisdiction known to the lawyer to be directly adverse to the position of the client and not disclosed by opposing counsel; or

(3) offer evidence that the lawyer knows to be false. 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. A lawyer may refuse to offer evidence, other than the testimony of a defendant in a criminal matter, that the lawyer reasonably believes is false.

- Eleven violations of Rule 3.4(c), which states 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.”
- Ten violations of Rule 8.4(d), which states that “[i]t is professional misconduct for a lawyer to . . . engage in conduct that is prejudicial to the administration of justice.”

The Rule 3.1 violation arose from an allegation that Stilley assisted the Joneses in the federal Jones case in bringing a frivolous claim against the named defendants, including then-sitting justices of this court. The violation of Rule 3.3(a)(1) stemmed from a contempt hearing in the Sebastian County Circuit Court wherein Stilley was asked about his role in the preparation of the pleadings in the federal Jones case. According to Ligon, Stilley’s responses “demonstrated a lack of candor, even a false statement, to the tribunal.” In counts three through thirteen, Ligon cited instances of language included in the federal Jones case pleadings that he alleged were “intemperate, contemptuous, and disrespectful” toward the court. Ligon argued that this language violated Rule 3.4(c) because it constituted “a breach of the obligation of [Stilley’s] oath of office as an attorney-at-law, due to his general tone of disrespect for the attorney code of ethics.”⁵

Five of the Rule 8.4(d) violations arose from allegations that Stilley threatened a circuit

⁵We express some concern about these charges because it is unclear whether an attorney can be sanctioned for violating his “lawyer’s oath.” However, Stilley does not raise this as an argument on appeal, and we will not address issues that are not argued. See, e.g., *Gatzke v. Weiss*, 375 Ark. 207, 289 S.W.3d 455 (2008).

judge and two attorneys with criminal and disciplinary actions in “an attempt to coerce a favorable result in a civil court action.” The petition for disbarment further alleged that Rule 8.4(d) was violated where Stilley was sanctioned under Rule 11 for filing a complaint that was barred by res judicata; violated Rule 11 where he filed a lawsuit in federal court that was barred by several legal doctrines and for which he had previously been sanctioned; failed to comply with an order for sanctions entered in the Sebastian County Circuit Court; brought a lawsuit personally against various Arkansas judges on frivolous claims; and brought a lawsuit against then-circuit judge Marschewski and the University of Arkansas, Fort Smith for an improper purpose.

Finally, Ligon urged that the previously affirmed six-month suspension of Stilley’s law license, *see Stilley v. Supreme Court Committee on Professional Conduct*, 370 Ark. 294, 259 S.W.3d 395 (2007), and allegations in a pending professional-misconduct case were relevant to his overall fitness to hold a law license.

In the amended petition for disbarment, Ligon brought the following additional nine charges:

- One violation of Rule 3.4(c), which states 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.”
- One violation of Rule 4.4(a), which states that “[i]n representing a client, a lawyer shall not use means that have no substantial purpose other than to embarrass, delay, or burden a third person, or use methods of obtaining evidence that violate the legal rights of such a person.
- One violation of Rule 8.4(d), which states that “[i]t is professional misconduct for a

lawyer to . . . engage in conduct that is prejudicial to the administration of justice.”

- Three violations of Rule 3.3(a)(1), which states that “[a] lawyer shall not knowingly . . . 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.”
- Three violations of Rule 8.4(c), which states that “[i]t is professional misconduct for a lawyer to . . . engage in conduct involving dishonesty, fraud, deceit or misrepresentation.”

The Rule 3.4(c) and Rule 4.4(a) violations arose from an allegation that Stilley had subpoenas and deposition notices issued in direct violation of a circuit judge’s directive. The Rule 8.4(d) violation resulted from an allegation that Stilley accused Judge Marschewski of lying during a legal proceeding, especially where Stilley made the same accusation in a previous case that was decided against Stilley. According to the amended petition for disbarment, Stilley violated Rule 3.3(a)(1) and Rule 8.4(c) on multiple occasions by filing petitions for admission to practice pro hac vice in federal courts without disclosing his prior disciplinary history in Arkansas. Ligon’s amended petition also included ten specific allegations Stilley had engaged in conduct relevant to his fitness to hold a law license, when he petitioned for admission to practice pro hac vice in federal courts. Ligon asserted that, in these cases, Stilley attempted to relitigate his Arkansas professional misconduct proceedings in federal courts throughout the country.

C. Special Judge’s Findings

In his findings of fact and conclusions of law, the special judge reviewed extensively the factual allegations and charges brought against Stilley. He concluded, after referencing the exhibits introduced in support of the charges, that Ligon had met his burden on all thirty-two

charges of misconduct. Following the hearing on sanctions, the special judge concluded that twenty of the counts rose to the level of “serious misconduct,” as defined in section 17(B) of the Procedures:

Serious misconduct is conduct in violation of the Model Rules that would warrant a sanction terminating or restricting the lawyer's license to practice law. Conduct will be considered serious misconduct if any of the following considerations apply:

- (1) The misconduct involves the misappropriation of funds;
- (2) The misconduct results in or is likely to result in substantial prejudice to a client or other person;
- (3) The misconduct involves dishonesty, deceit, fraud, or misrepresentation by the lawyer;
- (4) The misconduct is part of a pattern of similar misconduct;
- (5) The lawyer's prior record of public sanctions demonstrates a substantial disregard of the lawyer's professional duties and responsibilities; or
- (6) The misconduct constitutes a “Serious Crime” as defined in these Procedures.

P. Reg. Prof'l Conduct § 17(B).⁶ He specifically found that “[f]or more than nine years Stilley has deliberately and without justification engaged in a course of conduct inconsistent with standards of professional conduct required by attorneys practicing in this state.” The special judge noted that “Stilley has an extensive track record” and that his “unethical conduct has not been isolated or infrequent.”

The judge then looked to the factors to be considered in imposing sanctions, listed in section 19 of the Procedures:

In addition to any other considerations permitted by these Procedures, a panel of the Committee, in imposing any sanctions, shall consider:

⁶The counts rising to the level of serious misconduct were: 1, 2, 4, 6, 7, 10, 11, 13, 14, 15, 16, 19, 22, 25, 26, 27, 29, 30, 31, and 32. The special judge specifically found that subsections 17(B)(2), (3), (4), and (5) applied.

- A. The nature and degree of the misconduct for which the lawyer is being sanctioned.
- B. The seriousness and circumstances surrounding the misconduct.
- C. The loss or damage to clients.
- D. The damage to the profession.
- E. The assurance that those who seek legal services in the future will be protected from the type of misconduct found.
- F. The profit to the lawyer.
- G. The avoidance of repetition.
- H. Whether the misconduct was deliberate, intentional or negligent.
- I. The deterrent effect on others.
- J. The maintenance of respect for the legal profession.
- K. The conduct of the lawyer during the course of the Committee action.
- L. The lawyer's prior disciplinary record, to include warnings.
- M. Matters offered by the lawyer in mitigation or extenuation except that a claim of disability or impairment resulting from the use of alcohol or drugs may not be considered unless the lawyer demonstrates that he or she is successfully pursuing in good faith a program of recovery.

Id. § 19. The special judge also noted the aggravating and mitigating factors as provided in *Wilson v. Neal*, 341 Ark. 282, 16 S.W.3d 228 (2000). He concluded that the factors in section 19(A), (B), (C), (D), (E), (G), (H), (I), (J), (K), and (L) were relevant to the sanction and that there was evidence of ten aggravating factors.⁷ The special judge recommended disbarment “[b]ecause of Stilley’s unwillingness or inability to acknowledge that his conduct has not met ethical standards; his failure to disclose his violations when required; and his continued pattern of failing to abide by Court Rules and ethical guidelines.”

D. Stilley’s Argument

⁷The judge found that Stilley had not presented any evidence of mitigating factors.

Before this court, Stilley first seems to argue that the findings of fact and conclusions of law were erroneous because Ligon did not comply with the special judge's request that he include an introduction or general statement of the facts in his proposed findings of fact and conclusions of law. This argument is without merit. We do not review any proposed findings of fact and conclusions of law as presented to the special judge by Ligon or Stilley. Rather, our review is from the findings of fact and conclusions of law as entered by the special judge. P. Reg. Prof'l Conduct § 13(D).

As a related argument, Stilley contends that Ligon failed to provide, in his proposed findings of fact and conclusions of law, any "citation to the *evidence* in the case." Rather, according to Stilley, Ligon relied on accusations, which were insufficient to meet his burden of proof for disbarment. This argument reflects a fundamental misunderstanding on Stilley's part about the nature of evidence. This error is evident in the following sentence from his brief: "[Ligon] did in fact recite various parts of the 'petition' and 'supplemental petition' for disbarment, *along with exhibits to the same.*" (Emphasis added.) Later in his brief, Stilley notes that Ligon "presented but one witness in his case in chief on liability, namely Respondent Oscar Stilley."

The implication of these two sentences, taken together, is that Ligon was required to prove the charges brought in his petition for disbarment with live witness testimony. However, there is no such requirement in the Procedures. Ligon chose to rely instead on

documentary evidence, submitted to the special judge in the form of exhibits.⁸ It is clear that evidence includes documents as well as witness testimony. *See, e.g., Black's Law Dictionary* 635 (9th ed. 2009) (defining evidence as “[s]omething (including testimony, documents and tangible objects) that tends to prove or disprove the existence of an alleged fact . . .”).

During the evidentiary hearing and the hearing on sanctions, Stilley objected to the introduction of most of the exhibits admitted by the special judge. However, he does not argue to this court that the special judge erred in admitting the above-referenced exhibits. Therefore, he has abandoned any argument as to the admissibility of the exhibits. Instead, Stilley contends that there was a “complete and total absence of evidence in support of [Ligon’s] claims.” However, the special judge’s orders reflect that he relied on the exhibits admitted during the proceedings. It is clear that there was evidence on which the judge based his findings.

Finally, while Stilley may disagree about whether the exhibits admitted by Ligon constitute sufficient evidence to support the special judge’s specific findings, he has not engaged in any meaningful analysis on this issue. In other disbarment cases, we have refused to engage in a comprehensive review of the findings of fact where the respondent failed to specifically challenge or contest them. *See, e.g., Ligon v. Walker*, 2009 Ark. 136, 297 S.W.3d 1.

⁸There were seventeen exhibits submitted with the petition for disbarment; ten exhibits submitted with the amended petition for disbarment; two-hundred and four exhibits admitted during the evidentiary hearing on December 8–10, 2008; and thirty-eight exhibits admitted at the sanctions hearing on May 21, 2009. In addition, five witnesses testified at the sanctions hearing.

Therefore, we adopt the special judge's findings of fact and find that Stilley violated the Rules as set forth in the petition and amended petition for disbarment. For years Stilley has refused to accept the finality of decisions rendered by courts of competent jurisdiction. Instead, he has consistently engaged in conduct intended to harass opposing counsel and judges with whom he disagrees. In so doing, he has wasted vast amounts of time and judicial resources. He has also been unwilling to obey direct orders of the court and has withheld material information from state and federal courts. We are mindful of the gravity of Stilley's actions as well as the cumulative nature of his violations. Thus, we likewise agree with the special judge that Stilley's actions constitute serious misconduct and that disbarment is the appropriate sanction.

IV. *Meaningful Adjudication*

Stilley's next argument is that the special judge erred because he failed to "meaningfully adjudicate" his legal arguments. As a preliminary matter, in his brief to this court, Stilley purports to "incorporate all the legal arguments presented" to the special judge in eleven specific pleadings, and he cites *Jones v. Ragland*, 293 Ark. 320, 737 S.W.2d 641 (1987), for the proposition that, according to Stilly, "incorporation by reference seems to be acceptable so long as the arguments are included in the addendum." However, in *Ragland*, we held that it was improper for a party to incorporate by reference a brief presented to the lower court in support of his argument on appeal where it was not abstracted. *Id.* at 324, 737 S.W.2d at 644. We do not read *Ragland* to mean that a party can incorporate arguments

made to the trial court into the appellate brief so long as the lower-court pleading is included in the abstract or addendum. Such a holding would eviscerate our rules regarding briefing length and would render meaningless our holdings that we do not address arguments that are not sufficiently argued or briefed to this court. Ark. Sup. Ct. R. 4-1 (2010); *see also Gatzke v. Weiss*, 375 Ark. 207, 215, 289 S.W.3d 455, 461 (2008) (this court will not address arguments unless they are sufficiently developed and include citation to authority).

However, even if we considered the pleadings Stilley submitted to the special judge, his argument fails. Stilley does not specifically argue that the special judge erred in rejecting his legal and constitutional arguments. Instead, he contends that he “has tried at every turn, from the written response at the Committee on Professional Conduct, to the public hearing, to the disbarment proceedings, to obtain consideration of his constitutional and other legal arguments.” According to Stilley, “[t]hese arguments have received either no consideration or such cursory consideration as to constitute a violation of due process.” The record belies this claim.

The eleven pleadings cited by Stilley in his brief are as follows:

- March 3, 2008 – Response to Petition for Disbarment
- July 30, 2008 – Stilley’s Motion to Dismiss, for More Definite Statement, and to Strike Immaterial Parts of the Supplemental Petition for Disbarment
- August 29, 2005 – Reply to the Response to the Motion to Dismiss, for More Definite Statement, and to Strike Immaterial Parts of the Supplemental Petition for Disbarment
- September 30, 2008 – Stilley’s Response to the First Amendment/Supplement to the Petition for Disbarment

- September 30, 2008 – Stilley’s Motion to Reconsider the Motion to Dismiss, for More Definite Statement, and to Strike Immaterial Parts of the Supplemental Petition for Disbarment (with attached brief)
- October 20, 2008 – (1) Response to Motion to Quash; (2) First Motion to Extend Time for Discovery; (3) First Motion to Strike Section 5(C)(1) of the Procedures as Unconstitutional; (4) First Motion for Determination of Calculation of Travel Miles; (5) First Motion to Permit the Deposition of Stark Ligon; and (6) First Motion to Disqualify Stark Ligon
- October 31, 2008, Motion for Reconsideration and Order Commanding Stephen Tabor to Sit for Depositions, with a Continuance and Extensions of Time for All Operative Dates, Alternatively for an Order Concerning Deposition of Judges
- November 20, 2008 – Stilley’s Motion for Summary Judgment, for Dismissal for Lack of Jurisdiction, for Dismissal for Failure to State a Claim; for Rulings with Respect to Vague Allegations, and for Disqualification of Judge Lineberger and Stark Ligon
- March 18, 2009 – Stilley’s Motion for Directed Verdict or Judgment as a Matter of Law
- March 25, 2009 – Rebuttal with Respect to Petitioner’s Proposed Findings of Fact and Conclusions of Law
- April 20, 2009 – Stilley’s Motion for Directed Verdict or Judgment as a Matter of Law Regarding Counts 27-32

The record reflects that the special judge carefully considered each of these pleadings and entered written orders denying the relief Stilley sought on each motion. On September 12, 2008, he held a telephone conference on Stilley’s motion to dismiss, for more definite statement, and to strike immaterial parts of the supplemental petition for disbarment. On September 16, 2008, he entered a ten-page written order, discussing each of Stilley’s

arguments and denying the motion. The special judge then entered an order denying Stilley's motion for reconsideration of that motion on October 20, 2008.

On October 9, 2008, Circuit Judge Stephen Tabor filed a motion to quash the subpoena issued to him by the Committee at Stilley's request. The special judge held a telephone conference on this motion on October 14, 2008, at which both parties were permitted to present their legal arguments. The special judge entered an order granting the motion to quash on October 16, 2008, specifically relying on this court's holding in *Stilley v. Supreme Court Committee on Professional Conduct*, 370 Ark. 294, 259 S.W.3d 395 (2007). Stilley filed a motion for reconsideration and order commanding Judge Tabor to sit for depositions on October 31, 2008, and the special judge entered an order denying that request on November 3, 2008.

On October 29, 2008, Stilley filed a motion seeking the following relief: (1) Response to Motion to Quash; (2) First Motion to Extend Time for Discovery; (3) First Motion to Strike Section 5(C)(1) of the Procedures as Unconstitutional; (4) First Motion for Determination of Calculation of Travel Miles; (5) First Motion to Permit the Deposition of Stark Ligon; and (6) First Motion to Disqualify Stark Ligon. In his motion for reconsideration filed on October 31, 2008, Stilley also sought a continuance and extensions of time for all operative dates, and, alternatively, for an order concerning the deposition of judges.

In response to these motions, the special judge entered orders to: (1) deny the motion for a continuance on November 3, 2008; (2) deny the motion to depose Ligon on November

6, 2008; (3) deny the motion to disqualify Ligon on November 6, 2008; (4) deny the motion to strike section 5(C)(1) of the Procedures on November 7, 2008; and (5) deny the motion to extend time for discovery on November 7, 2008.

On December 1, 2008, the special judge entered an order denying Stilley's motion to disqualify Ligon and Special Judge Lineberger. The same day, he entered an order denying Stilley's motion for summary judgment, specifically finding that the arguments contained in the motion were "more in the nature of a closing argument" and were not "supported by an Affidavit or by relevant facts generated and sworn to in discovery." He then concluded that there were genuine issues of material fact.

The special judge entered an order on April 22, 2009, denying Stilley's motions for directed verdict or judgment as a matter of law. And, finally, the arguments raised by Stilley in his response to the petition for disbarment, response to the amended petition for disbarment, and rebuttal with respect to Ligon's proposed findings of fact and conclusions of law were addressed in the special judge's findings of fact and conclusions of law entered on April 22, 2009.

This exhaustive procedural history is included to illustrate that while Stilley may disagree with the special judge's decisions in this case, he clearly received consideration of his constitutional and other legal arguments. We will not second guess the special judge with respect to his findings on the merits of these arguments because Stilley has made no argument as to why the judge was in error. It is well settled that we will not address arguments that are

insufficiently developed and lack citation to authority. *See, e.g., Gatzke v. Weiss*, 375 Ark. 207, 215, 289 S.W.3d 455, 461 (2008).

V. *Deposition of Judge Tabor*

Stilley also argues that the special judge erred in granting the motion to quash brought by Circuit Judge Stephen Tabor. He contends that because Judge Tabor referred him to the Committee for possible violations of the Rules, he became an “accuser,” and, as such, was required to sit for depositions. The special judge granted the motion to quash in reliance on precedent from this court. *Stilley v. Supreme Court Comm. on Prof'l Conduct*, 370 Ark. 294, 259 S.W.3d 395 (2007). He was correct in doing so.

In *Stilley v. Supreme Court Committee on Professional Conduct*, we squarely addressed this argument and affirmed our earlier decision to quash subpoenas issued to the then-sitting justices of this court. 370 Ark. at 299–30, 259 S.W.3d at 398. In responding to Stilley’s argument that the justices should recuse from the case, the court noted that he was attempting to “reviv[e] his attempt to have the justices of this court recuse, seemingly, from all cases involving him” based on an argument that, having previously referred him to the Committee, they were his “‘accusers’ and have an interest in the outcome of the case.” *Id.* at 303, 259 S.W.3d at 401. We held that Stilley was merely “renewing his long-standing argument that he disagrees with this court’s decisions in cases he believes he should have won” and that “recusal is simply not appropriate nor warranted” in the case. *Id.* Just as the justices of this court were not required to sit for depositions after having referred Stilley to the Committee,

neither was Judge Tabor. The special judge, therefore, did not err in granting the motion to quash.

VI. *Section 5(C)(1)*

Finally, Stilley contends that section 5(C)(1) is unconstitutional because it treats complaints from judges differently from those of other citizens. P. Reg. Prof'l Conduct § 5(C)(1) (2008) (“It shall be the duty of the Office of Professional Conduct to receive and investigate all complaints against any member of the Bar. Such complaints shall be docketed and assigned a permanent file number. The Office of Professional Conduct and the Committee shall accept and treat as a formal complaint any writing signed by a judge of a court of record in this State regardless of whether such signature is verified.”).⁹ Stilley claims that this provision violates the Arkansas Constitution because “no person has a right to have their complaints treated as more important than the complaints of others solely on the basis of their position.” Stilley specifically contends that section 5(C)(1) is unconstitutional because “[t]he General Assembly shall not grant to any citizen or class of citizens privileges or immunities which upon the same terms shall not equally belong to all citizens.” Ark. Const. Art. 2, § 18.

In rejecting this argument, the special judge held that the rules promulgated by this court pursuant to its authority to regulate the practice of law are presumed to be constitutional

⁹Section 5(C)(1) of the Procedures has recently been amended and now provides that “[t]he Office of Professional Conduct and the Committee *may* accept and treat as a formal complaint any writing signed by a judge” P. Reg. Prof'l Conduct § 5(C)(1) (2010) (emphasis added).

and that Stilley failed to cite any authority holding otherwise. We decline to address Stilley's argument on this point because he has not presented any evidence that he was prejudiced by the Committee's treatment of the Marschewski and Tabor Complaints.¹⁰ See *Judicial Discipline & Disability Comm'n v. Simes*, 2009 Ark. 543, 354 S.W.3d 72 (due-process argument not considered where respondent failed to show prejudice). Since Stilley has failed to show how the Committee would have acted differently if the complaints were filed by non-judges, we reject his argument.

VII. Conclusion

We adopt the special judge's findings of fact and conclusions of law and find that Stilley violated the Rules as charged by Ligon in the petition and amended petition for disbarment. Further, given the number of violations, the length of time over which Stilley has incurred such violations, and Stilley's repeated unwillingness to accept the finality of court decisions, we agree that his actions constitute serious misconduct and that disbarment is the appropriate sanction.

Order of disbarment entered.

¹⁰ In the Marschewski matter, there was an additional complaint filed by an attorney from Fort Smith, Walton Maurras.