

**IN THE SUPREME COURT OF MISSOURI  
EN BANC**

|   |   |                        |
|---|---|------------------------|
| <b>IN RE:</b>                           | ) |                        |
|   | ) |                        |
| <b>JOHN DALE WILEY,</b>                 | ) |                        |
| <b>105 Courtney Lane, P. O. Box 390</b> | ) | <b>CASE NO. SC9712</b> |
| <b>Crane, MO 65633</b>                  | ) |                        |
|   | ) |                        |
| <b>Missouri Bar No. 50240</b>           | ) |                        |

**BRIEF OF RESPONDENT**

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**JURISDICTIONAL STATEMENT**

Jurisdiction over attorney discipline matters is established by Article 5, Section 5 of the Missouri Constitution, Supreme Court Rule 5, this Court's common law, and  
Section 484.040 RSMo 2000

## **STATEMENT OF FACTS**

This is an attorney discipline case proceeding under Missouri Supreme Court Rule 5. The case involves a four count Information against John Dale Wiley, Missouri Bar number 50240. Hearings were held in accord with Rules 5.13-5.19 in Springfield, Missouri, on September 17, 2018, and November 13, 2018. The Disciplinary Hearing Panel (DHP) issued its Findings, Conclusions and Recommendation on March 28, 2019. (App. 901-927). Informant accepted the Panel's recommendation on April 1, 2019 (App. 928). On April 25, 2019, Respondent rejected the decision by notice to the Panel Chair.

### **ARGUMENT**

Over the course of two days last fall, I listened to the allegations made against me. Perhaps the most difficult for me to stomach was being called dishonest, when this consisted of entirely of not being able to quickly and adroitly enough answer the questions that were poised. I do not consider this at all dishonesty. I would ask anyone put under the same number of questions to do a better job. I find these allegations to be the most ridiculous of all the charges.

However, this takes away the result of the legal work I was able to do for Mr. Funk. As far as the other charges, I still hold forth that I did the best thing that I could do for Ms. Fox, considering that she eventually received all of the money I took as a fee (\$1,000) to represent her, and was able to cut a new deal with the creditor when she was at a better place to make a deal. I also argue that I did the best that I could do for Mr. Reed, who was able to stay in a house he had no right to be in whatsoever. I bought him months and months for the total amount he paid to me, \$600. Similarly, Ms. Bolin at the hearing indicated that she was still living at the house at the date she appeared at the hearing, many years after she stopped making payments.

However, these all pale in comparison to the deal I was able to fashion for Mr.

Funk. Mr. Funk was charged with multiple counts of child pornography on the state level. He had young boys who were mad at Mr. Funk and made statements to police about the massive collection of questionable and outright images of child pornography. I sought out and tried to see if there was any entrapment on the part of the police or the boys. There was none. I then turned to what I could see was a deep distrust of the prosecutor towards the federal prosecutors. The worst thing that could happen to Mr. Funk was to allow this case (with its voluminous images and videos) was to have the case turned over to the feds. Mr. Funk and his labeled and catalogued questionable images was literally looking at thousands of years in federal charges. Instead, I was able to work with the prosecutor to broaden the language Mr. Funk was being charged under to at least ostensibly create a double jeopardy situation. Then, I met with other attorneys to explain the deal, and ended up with a deal for Mr. Funk on which he served less than five years. In fact, he appeared at the hearing as a free man, having already been out of prison for nearly a year.

The reason I thought that the fee I took was reasonable was because of the advice of my mentor, Mr. Scott Pettit, and the advice I received the prior week at a CLE event, the Solo and Small Firm Conference in 2013, where Mr. Travis Noble in his criminal law CLE told everyone listening that he did not use his trust account, but instead put the full fee amount in his general account.

The letter that I wrote clearly indicates that I was considering treating the matter as one for the trust account, but Mr. Pettit indicated that I should treat it differently did.

This is not to blame Scott; he has always been honorable and helpful to me. However, it does provide the context in which I ask for the different penalties that I request.

**CONCLUSION**

WHEREFORE, Respondent requests a different punishment of probation and for such other relief as is just and proper.

Respectfully submitted July 15, 2019

By: /s/ Dale Wiley

Dale Wiley, Bar No. 50240

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**CERTIFICATE UNDER RULE 84.06(c)**

I, hereby certify that I am attorney for the Respondent and that the foregoing Brief of Respondent:

- (1) Includes the information required by Rule 55.03;
- (2) Complies with the limitations contained in Rule 84.06(b); and
- (3) Contains 949 words according to the word count total contained in Microsoft Word software with which it was prepared,
- (4) Contains zero lines of monospaced type in the brief (excepting certificates, signature blocks and cover page), and

The undersigned further certifies that the file submitted with this Brief has been scanned for viruses and is virus-free.



**CERTIFICATE OF SERVICE**

I certify that this 15th day of July 2019, I have served a true and accurate copy of the foregoing by electronic mail to all interested parties via CaseNet.

By: /s/ Dale Wiley