



**IN DISCIPLINARY DISTRICT VIII
OF THE
BOARD OF PROFESSIONAL RESPONSIBILITY
OF THE
SUPREME COURT OF TENNESSEE**

**IN RE: RICHARD D. CARTWRIGHT
BPR #11242, Respondent,
An Attorney Licensed to
Practice Law in Tennessee
(Tipton County)**

File No. 27204-8-SG

PUBLIC CENSURE

On April 22, 2004, the Court of Criminal Appeals in: *The Matter of C.T.S., In Re: Sullivan and Cartwright, No. W2003-01679-COA-R3-JV*, entered an order, in part, as follows:

This is a parental termination case appealed to this Court by the parents, Appellants Victoria Alicia Teran and Willie Nathaniel Smith. The case is before this Court pursuant to order of the Court filed April 6, 2004, as amended by order filed April 12, 2004, requiring Cyburn Hilliard Sullivan and Richard D. Cartwright, attorneys for the Appellants to show cause why they should not be held in criminal contempt of court for their actions regarding previous orders of this Court. This Court's hearing was held on April 20, 2004, as set forth in the April 6 order.

The record reflects that Appellants' Notice of Appeal was filed June 16, 2003, and the clerk of this Court received the record from the trial court with no transcript of the evidence or statement of the evidence. On October 31, 2003, the Appellee, Department of Children's Services, filed a motion pursuant to Rule

26(b) Tennessee Rules of Appellate Procedure seeking the dismissal of the appeal for the Appellants' failure to file a transcript or statement of the evidence. The Appellants did not file a response to this motion. Because this case involves the termination of parental rights, the Court on November 19, 2003, ordered the counsel of record for the Appellants to file a transcript or statement of the evidence with the clerk of the trial court within 35 days of the date of the filing of the order. The order specifically stated that "failure to file the transcript or statement with the clerk of the trial court within the time allowed herein may result in the filing of an order requiring counsel to show cause why they should not be held in contempt." A copy of this order was sent certified mail to the attorneys at their address of record. The attorneys did not comply with this Court's order or otherwise respond thereto.

On January 28, 2004, Appellee filed a second motion to dismiss with an affidavit of the trial court clerk attached stating that no transcript or statement of evidence had been filed. On February 13, 2004, the Court filed an order duly served on above named counsel by certified mail requiring them to show cause why they should not be held in contempt of court. No response was filed by the attorneys. By order filed February 27, 2004, the attorneys were then ordered to file a transcript or statement of the evidence or alternatively an explanation as to whether Appellants wish to pursue their appeal. The order provided among other things that "failure to respond to this order will result in the entering of an order requiring Cyburn Hilliard Sullivan and Richard D. Cartwright to appear before a panel of the Court during its April session." The attorneys made no response whatsoever to this order. Accordingly, the Court filed the orders above referred to for the appearance of the attorneys.

On April 20, 2004, at 9:00 a.m., the Court convened and attorney Cyburn Hilliard Sullivan was present but attorney Richard D. Cartwright was not present.

The Court heard the explanation of Cyburn Hilliard Sullivan concerning his failure to act in which he offered no valid excuse for disregarding the Court's three previous orders. At the conclusion of his remarks, Richard D. Cartwright still had not appeared. The Court recessed and at 9:30 a.m. reconvened and Richard D. Cartwright was present but without a valid reason for his failure to appear at 9:00 a.m. as ordered by the Court. He further offered no valid reason for his failure to respond to the three previous orders of the Court.

The Court determined from the history above recited and the explanations of the two attorneys that the attorneys flagrantly disregarded the three previous orders of the Court. Although the action of the attorneys could have resulted in three separate contempts of court, the Court will combine the contempts into one and finds that both attorneys were in criminal contempt of court. While the Court finds that both attorneys are in criminal contempt of court, the nature of their actions calls for different punishments.

We therefore find, and hereby adjudge, that Cyburn Hilliard Sullivan and Richard D. Cartwright are guilty of criminal contempt of this Court.

It is further ordered that Cyburn Hilliard Sullivan is sentenced to five (5) days in the Madison County Jail and fined \$50 for contempt of court, provided that the jail time is suspended upon condition that attorney Sullivan conforms to the rules of appellate practice and conforms to the further rules of this Court in the completion of the handling of the instant case. It is further ordered that the attorney Richard D. Cartwright be sentenced to ten (10) days in the Madison County Jail and fined \$50, provided that nine (9) days of the jail time is suspended provided that attorney Cartwright will conform to the rules of appellate practice and further rules of this Court in the completion of the handling of the instant case. Mr. Cartwright shall serve one (1) day in the Madison County Jail from the period of time of 9:00 a.m. in the morning until 4:00 p.m. in the afternoon.

The Respondent's neglect and failure to respond to the Court of Criminal Appeals violates Rules 1.3; 3.2; 3.4 and 8.4 of the Tennessee Rules of Professional Conduct. For these

actions and inactions, the Board of Professional Responsibility publicly censures Richard D. Cartwright.

FOR THE BOARD:

Charles E. Carpenter

Charles E. Carpenter, Chairman
Board of Professional Responsibility
of the Supreme Court of Tennessee

DATE: *July 20, 2004*