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IN THE SUPREME COURT OF FLORIDA

IN RE: PROPOSED AMENDMENTS  
TO THE CODE OF JUDICIAL, CONDUCT

CASE NO. 81,685

**FILED**

SID J. WHITE

JUN 30 1993

**RESPONSE OF HEINZ DINTER**

CLERK, SUPREME COURT.

By ~~Chief Deputy Clerk~~ **ROMES NOW**, HEINZ DINTER, as a friend of our judicial system, and hereby responds to the "Proposed Amendments to The Code of Judicial Conduct," as filed herein, and shows this Honorable Court the following.

**1. Support and Comments.** The undersigned enthusiastically supports the proposed amendments to The Code of Judicial Conduct as drafted, except for the modifications proposed herein.

In a number of instances, the proposed amendments give recognition to the need for imposing binding obligations on judges by changing the word "should" to "shall" in accordance with the definitions stated in the Preamble.

The use of the word "should" suggests a discretionary guide and is "intended as an admonishment" when the Code should principally prescribe obligatory conduct and "impose binding obligations."

The undersigned urges this Honorable Court to continue in that spirit of giving additional strength to the code of conduct and thereby offer the utmost opportunity to one and all to respect the integrity of our judges who let themselves be governed by a code of judicial conduct that is second to none.

May it please this Honorable Court, I grew up in a society with roots of the highest respect for certain professions, among them teachers, clergy, and judges. Totalitarian control of the people, deprived of the many freedoms we enjoy in America, and without protection of an impartial judiciary, made this respect meaningless, especially for clergy and judges. Clergy, we were taught, are enemies of the people and judges are the true protectors of the peoples' rights. Only those who were blinded by government dogma failed to recognize the hypocrisy of marionettes being presented as judges of the peoples' court.

The Preamble to The Code of Judicial Conduct summarizes our blessings and emphasizes the duties of our judges: “Our legal system is based on the principle that an independent, fair and competent judiciary will interpret and apply the laws that govern us. The role of the judiciary is central to American concepts of justice and the rule of law. Intrinsic to all sections of this Code are the precepts that judges, individually and collectively, must respect and honor the judicial office as a public trust and strive to enhance and maintain confidence in our legal system.”

Will not the strength envisioned for our judiciary to rule independently, fairly, and competently be in jeopardy if *We the People* waver in our desire to respect judges?

Judges are not simply members of a profession like bakers, bankers, or candlestick makers. Members of the judiciary have a unique place in our society — they pass judgment on all of us.

It is for these reasons that the undersigned prays this Honorable Court will adopt a Code of Judicial Conduct of such firmness and resoluteness to give true value to the respect and honor the judge gives to his office, and to also give true value to the respect and honor *We the People* have for our judges.

Let us remind ourselves, “The people are the masters of both Congress and courts, not to overthrow the Constitution, but to overthrow the men who pervert it.” They are the words of Abraham Lincoln.

**2. Preamble.** The undersigned respectfully requests the fifth paragraph of the Preamble of the Code be amended by replacing the use of the word “should” with the word “must.”

The Code of Judicial Conduct is not intended as an exhaustive guide for the conduct of judges. They ~~should~~ must also be governed in their judicial and personal conduct by general ethical standards. The Code is intended, however, to state basic standards which ~~should~~ must govern the conduct of all judges and to provide guidance to assist judges in establishing and maintaining high standards of judicial and personal conduct.

**3. Canon 1.** The undersigned respectfully requests Canon 1 of the Code be amended by replacing the use of the word “should” with the word “shall.”

A Judge ~~Should~~ Shall Uphold the Integrity and Independence of the Judiciary

A. An independent and honorable judiciary is indispensable to justice in our society. A judge ~~should~~ shall participate in establishing, maintaining, and enforcing high standards of conduct, and shall

personally observe those standards **so** that the integrity and independence of the judiciary may be preserved. The provisions of this Code ~~should~~ shall be construed and applied to further that objective.

4. **Canon 2.** The undersigned respectfully requests Canon 2 of the Code be amended by replacing the use of the word “should” with the word “shall.”

A Judge ~~Should~~ Shall Avoid Impropriety and the Appearance of Impropriety in All of the Judge’s Activities.

5. **Canon 2B.** The undersigned respectfully requests Canon 2B of the Code be amended by replacing the use of the word “should” with the word “shall.”

B. A judge shall not allow his personal, business, or political relationships to influence the judge’s judicial conduct or judgment. A judge shall not intentionally lend the prestige of judicial office to advance the private interests of the judge or others; nor ~~should~~ shall the judge convey or authorize others to convey the impression that they are in a special position to influence the judge. The judge ~~should~~ shall not testify voluntarily as a character witness.

6. **Canon 3C(4), Administrative Responsibilities.** The undersigned respectfully requests Canon 3C(4) of the Code be amended by replacing the use of the word “should” with the word “shall.”

(4) A judge ~~should~~ shall not make unnecessary appointments and shall exercise the power of appointment impartially and on the basis of merit. A judge shall not engage in nepotism ...

7. **Canon 3D(2), Disciplinary Responsibilities.** The undersigned respectfully requests Canon 3D(2) of the Code be amended by replacing the use of the word “should” with the word “shall” and adding the following:

(2) A judge who receives information or has actual knowledge that substantial likelihood exists that a lawyer has committed a violation of The Rules Regulating The Florida Bar ~~should~~ **shall** take appropriate action *which action shall include reporting the violation to The Florida Bar, to the State Attorney, or to the U.S. Attorney, as appropriate.*

8. **Canon 3E(1), Disqualification.** The undersigned respectfully requests Canon 3E(1) of the Code be amended by replacing the use of the word “should” with the word “shall.”

(1) A judge ~~should~~ shall disqualify himself or herself in a proceeding in which the judge’s impartiality might reasonably be questioned, including but not limited to instances where:

**9. Canon 3E(1)(c), Disualification.** The undersigned respectfully requests Canon 3E(1) of the Code be amended by inserting the following after 3E(1)(b):

(c) a lawyer who is appearing before the judge has an overriding influence with the judge.

Note: Inserting the above requires changing 3E(1)(c) to 3E(1)d and 3E(1)d to 3E(1)e.

Criticism is rampant today of “corrupt” judges and lawyer-bashing has reached epidemic proportions.

Based on the undersigned’s personal experience and observations, much criticism of injustice could be avoided with a canon calling for disciplinary action resulting from violation of the proposed Canon 3E(1)(c).

**10. Canon 3E(2), Disualification.** The undersigned respectfully requests Canon 3E(2) of the Code be amended by replacing the use of the word “should” with the word “shall.”

(2) A judge ~~should~~ shall keep informed about the judge’s personal and fiduciary economic interests ...

**11. Canon 5.** The undersigned respectfully requests Canon 5 of the Code be amended by replacing the use of the word “should” with the word “shall.”

A Judge ~~Should~~ Shall Regulate Extrajudicial Activities to Minimize the Risk of Conflict with Judicial Duties.

**12. Canon 6.** The undersigned respectfully requests Canon 6 of the Code be amended by replacing the use of the word “should” with the word “shall.”

Fiscal Matters of a Judge ~~Should~~ Shall be conducted in a Manner That Does Not give the Appearance of Influence or Impropriety; A Judge ~~Should~~ Shall Regularly File Public Reports as Required by Article 11, Section 8, of the Constitution of Florida, and ~~Should~~ Shall Publicly report Gifts; Additional Financial Information Shall Be Filed With the Judicial Qualifications Commission to Ensure Full Financial Disclosure.

**13. Canon 7B, Campaign Conduct.** The undersigned respectfully requests Canon 7B of the Code be amended by inserting the following after 7B(2):

A candidate, including an incumbent judge, for a judicial office that is filled by public election between competing candidates shall not accept campaign funds or support, directly or indirectly, from an attorney or an attorney’s immediate family.

Note: Inserting the above requires changing 7B(3) to 7B(4) and 7B(4) to 7B(5).

The unique relationship between judge and lawyer must be safeguarded and the temptation of influence buying avoided, though it is at the cost of curtailing the rights of citizens to make contributions.

In the case of a conflict, protecting the integrity of the judiciary and with it the rights of *We the People* must take precedence over protecting the rights of a profession.

However, it could be argued that the lawyer who takes the Oath of Admission to The Florida Bar, "I will maintain the respect due to courts of justice and judicial officers," voluntarily renounces that right in support of avoiding any suspicion that could tarnish the image of independence and fairness of the judiciary.

Respectfully submitted this 29th day of June, 1993.



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