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FILED

SID J. WHITE

JUL 1 1993

CLERK, SUPREME COURT.

By _____
Chief Deputy Clerk

IN THE SUPREME COURT OF FLORIDA

IN RE: PROPOSED AMENDMENTS
TO THE CODE OF JUDICIAL CONDUCT

Case No.: 81,685

RESPONSE OF STEPHEN LANE

COMES NOW, STEPHEN LANE, Pro Se Litigant, and friend of OUR -- (HE THE PEOPLE's) -- judicial system, and hereby responds to the Supreme Court's Standards Of Conduct Governing Judges Committee's Proposed Amendments To The Code Of Judicial Conduct as filed herein and respectfully shows this Honorable Court the following:

1. The undersigned fully supports any efforts, such as those of the aforementioned committee's proposal, that acknowledges the absolute necessity of WE THE PEOPLE's trust in the uncompromised integrity of OUR judicial system. Absent the true confidence of the people it exists to serve, OUR judicial system becomes void of true authority to uphold OUR law and to advance true justice.

2. The undersigned, in the capacity of a Pro Se litigant, a public observer (popularly known as a "Court Watcher"), and as a legal reform advocate, has had numerous opportunities to witness the growing public perception that the present quality and characteristic of our judicial system is such that WE THE PEOPLE cannot presently, in reasonable confidence, trust in the integrity and fundamental fairness of OUR courts.

3. The undersigned would propose that the following amendments be added to the aforementioned **Proposed** Judicial Code, with the express intent of acknowledging the importance of safeguarding the trust and confidence of WE THE PEOPLE in our judicial system; and of increasing the degree of public accountability required of all OUR judiciary in service to that trust:

4. Re: CANON 3(A)(1)

As proposed, Canon 3(A)(1) would, in pertinent part, be amended to read as follows:

"...A judge shall be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, and others with whom the judge deals in an official capacity, and shall require similar conduct of lawyers, and of staff, court officials, and others subject to the judge's direction and control."

As such, this directive fails to afford any public observers of OUR judiciary's open proceedings the same respect and importance of the other participants in OUR judicial process. Such a failure to recognize the importance of public scrutiny of OUR courts, could easily lend itself to the alienation of the public's essential participation in it's own social institution; OUR courts.

In order to minimize the possible alienation of the public from participation in, scrutiny of, and, therefore, potential resulting confidence in, OUR courts; the undersigned proposes that Canon 3(A)(1) of The Code of Judicial Conduct be amended, in pertinent part, to read as follows:

"...A judge shall be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, *the observing public*, and others with whom the judge deals in an

official capacity, and shall require similar conduct of lawyers, and of staff, court officials, and others subject to the judge's direction and control.

The words "*the observing public*" are added to recognize the important participation of WE **THE PEOPLE** in OUR judicial system.

5. Re: CANON 3(A)(6)

As presently proposed, Canon 3(A)(6) would, in pertinent part, be amended to read as follows:

" A judge shall require lawyers in proceedings before the judge to refrain from manifesting, by words, gestures, or other conduct, bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation, or socioeconomic status, against parties, witnesses, counsel, or others."

The undersigned proposes that Canon 3(A)(6) of The Code of Judicial Conduct be amended, by addition of the same three words; "*the observing public*", for the same aforementioned purposes, to read, in pertinent part, as follows:

" A judge shall require lawyers in proceedings before the judge to refrain from manifesting, by words, gestures, or other conduct, bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation, or socioeconomic status, against parties, witnesses, counsel, *the observing public*, or others."

6. Re: CANON 3(A)(7)

As previously proposed, Canon 3(A)(7) would, in pertinent part, be amended to read as follows:

" A judge shall accord to every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard according to law."

As such, the directive could be understood to imply that any person who has a legal interest in a proceeding, and who contracts the services of an attorney for that proceeding, must do so with readiness to relinquish their right to be heard according to law. As presently proposed, the language may be understood and applied as an either/or conditioning upon the person's full right to be heard according to law. Such an understanding is not reflective of the intent nor requirements of due process. Language that might support such an understanding is best avoided.

The undersigned proposes that Canon **3(A)(7)** of The Code of Judicial Conduct be amended to read, in pertinent part, as follows:

" A judge shall accord to every person who has a legal interest in a proceeding *and to their assistance of counsel*, the right to be heard according to law."

The undersigned also proposes that Canon **3(A)(7)(e)**, in regard to ex parte communications would, in pertinent part, be amended to read as follows:

"(e) In the event that a judge participates in any such ex parte communications as provided for above in (c) and (d) of this Section, the judge shall make provisions promptly to notify all parties of the substance of the ex parte communication and shall allow an opportunity for all parties to respond."

Such an additional requirement could contribute to the judiciary's public accountability, with specific regard for the value of safeguarding the integrity of OUR judicial system from any potential public perception of corrupt conspiracies motivated by wrongful judicial self-interest, and served by the absence of a requirement to report and document the relevant ex parte communications as the aforementioned proposed directive (e) would

provide. This added language can help safeguard the public's confidence in the integrity of OUR judiciary.

7. Re: CANON 3(D)(2)

As presently proposed, Canon 3(D)(2) would be amended to read as follows:

" 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 take appropriate action."

This use of the word "should" has the operative effect of making this very important directive to report wrongful conduct no more than a suggestion to be followed according to the judge's discretion. Such a discretionary option with regard to reporting serious misconduct does not safeguard, nor contribute to, the public trust and confidence in the integrity of OUR judicial system.

The undersigned proposes that Canon 3(D)(2) of The Code of Judicial Conduct be amended to read, in pertinent part, as follows:

" 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 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. As presently proposed, Canon 3(E)(1) would be amended to read, in pertinent part, as follows:

" A judge should disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to instances where:"

In this instance, the use of the word "should" is contrary to the directive's intent to safeguard the fundamental right of all to a fair and impartial hearing. Unless the aforementioned disqualification is mandated by "shall", rather than recommended by the weaker language of "should"; the public's perception -- as well as opportunity -- of a fair and impartial hearing for all participants in OUR judicial system could be greatly compromised.

The undersigned proposes that Canon 3(E)(1) of The Code of Judicial Conduct be amended to read, in pertinent part, as follows:

" A judge *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:"

Respectfully submitted this 30th day of June, 1993.



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