

IN THE SUPREME COURT OF TENNESSEE  
AT NASHVILLE

<b>FILED</b> 06/12/2018 Clerk of the Appellate Courts
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**IN RE: PETITION TO AMEND TENNESSEE SUPREME COURT RULE  
10, CANON 2, RULE OF JUDICIAL CONDUCT 2.9, COMMENT 4**

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**No. ADM2018-00776**

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**ORDER**

On April 30, 2018, the Court entered an order soliciting public comments on a proposed amendment to Tennessee Supreme Court Rule 10, Canon 2, Rule of Judicial Conduct 2.9, Comment 4. The deadline for submitting written comments was May 30, 2018. The Court received written comments during the comment period from the Tennessee Bar Association (“TBA”), the Knoxville Bar Association (“KBA”), and Harold W. Duke, III. The TBA and the KBA supported the amendment, but Dr. Duke expressed opposition to the amendment’s discretion given to judges for ex parte communication while serving on a problem-solving court. The Court thanks the TBA, the KBA, and Dr. Duke for their input.

After due consideration, the Court hereby adopts the amendment to Tennessee Supreme Court Rule 10, Canon 2, Rule of Judicial Conduct 2.9, Comment 4, as set out in the attached Appendix. The amendment shall take effect immediately upon the filing of this Order.

The Clerk shall provide a copy of this Order, including the Appendix, to LexisNexis and to Thomson Reuters. In addition, this Order, including the Appendix, shall be posted on the Court’s website.

It is so ORDERED.

PER CURIAM

## APPENDIX

### TENN. SUP. CT. R. 10, CANON 2, Rule of Judicial Conduct 2.9, Comment 4 [New text is indicated by underlining/Deleted text is indicated by striking]

- [4] A judge may initiate, permit, or consider ex parte communications authorized by law. When serving on a therapeutic or problem-solving court, including but not limited to a mental health court, ~~or~~ a drug recovery court, a veteran's court, or a behavioral health recovery oriented compliance docket, judges may assume a more interactive role with parties, treatment providers, probation officers, social workers, and others. However, if this ex parte communication becomes an issue at a subsequent adjudicatory proceeding in which the judge is presiding, the judge shall either (1) disqualify himself or herself if the judge gained personal knowledge of disputed facts under RJC 2.11(A)(1) or the judge's impartiality might reasonably be questioned under RJC 2.11(A) or (2) make disclosure of such communications subject to the waiver provisions of RJC 2.11(C).