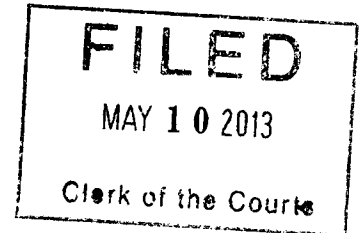


IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

IN RE: PROPOSED AMENDMENT TO TENNESSEE RULE OF
PROFESSIONAL CONDUCT 8.4

No. M2013-00379-SC-RL1-RL



ORDER

On February 6, 2013, the Board of Professional Responsibility (“BPR”) filed a petition asking the Court to amend Rule 8, RPC 8.4, of the Rules of the Tennessee Supreme Court to add a new paragraph (h), making it professional misconduct for a lawyer to engage, in a professional capacity, in certain discriminatory conduct. By Order filed February 13, 2013, the Court published the BPR’s proposed amendment for public comment with a comment deadline of April 1, 2013. By Order filed April 2, 2013, the Court extended the comment deadline to May 1, 2013.

The Court has received in excess of three hundred (300) pages of comments to the proposed amendment to Rule 8, RPC 8.4, from members of the bar, members of the public, and various organizations, including the Tennessee Bar Association, the Knoxville Bar Association and the Memphis Bar Association. The Court appreciates the interest of the bar and the public in this matter, as well as the comments received.

The current version of Rule 8, RPC 8.4(d), of the Rules of the Tennessee Supreme Court provides in pertinent part:

It is professional misconduct for a lawyer to:

...

(d) engage in conduct that is prejudicial to the administration of justice.

Comment [3] to RPC 8.4(d) provides:

A lawyer who, in the course of representing a client, knowingly manifests, by words or conduct, bias or prejudice based on race, sex, religion, national origin, disability, age, sexual orientation, or socio-economic status violates paragraph (d) when such actions are prejudicial to the administration of justice.

Legitimate advocacy respecting the foregoing factors does not violate paragraph (d).

The current version of RPC 8.4(d) and Comment [3] are virtually identical to the version contained in the American Bar Association Model Rules. *See* ABA Model Rules of Professional Conduct 8.4(d), cmt. [3]. The BPR's proposed amendment would substantively alter the language of current Comment [3], and would include this altered language as a separate subpart of RPC 8.4.

The Court has carefully considered the BPR's proposed amendment, the comments received, including the points and issues raised therein, and this entire matter. Given the clarity and scope of RPC 8.4(d) and Comment [3] and their similarity to the corresponding ABA Model Rule and comment, the BPR's petition to amend Rule 8, RPC 8.4 is DENIED. The Chattanooga Chapter of the Christian Legal Society's motion for oral argument (filed March 28, 2013) is DENIED as moot.

IT IS SO ORDERED.

PER CURIAM