

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

IN RE AMENDMENT TO RULE 10,
RULES OF THE TENNESSEE SUPREME COURT

No. M2013-01205-SC-RL2-RL

FILED

MAY 21 2013

Clerk of the Courts

ORDER

On January 4, 2012, the Court filed an order adopting a comprehensive revision of Tenn. Sup. Ct. R. 10, which sets out the Code of Judicial Conduct (the ethics rules applicable to Tennessee judges). As provided in that order, the revised Tenn. Sup. Ct. R. 10 took effect on July 1, 2012.

A Tennessee judge (and former member of the Tennessee Bar Association's Task Force on Judicial Conduct Rules, which had drafted the initial proposed revision of Tenn. Sup. Ct. R. 10) recently brought to the Court's attention a possible oversight in the "Application" provisions of revised Tenn. Sup. Ct. R. 10. In summary, Sections III(A) and V(A) & (B) of the Application provisions list specific exemptions from the Rules of Judicial Conduct for "continuing part-time judge[s]" (under Section III) and "pro tempore part-time judge[s]" (under Section V). Because RJC 3.15 ("Reporting Requirements") is not among the listed exemptions in either Section, continuing part-time judges and pro tempore part-time judges currently fall within the reporting requirements of RJC 3.15. The judge who brought this matter to the Court's attention has suggested that revised Tenn. Sup. Ct. R. 10 should have included RJC 3.15 in the list of exemptions for continuing part-time judges and pro tempore part-time judges, but that it was omitted by oversight.

After reviewing revised Tenn. Sup. Ct. R. 10 and considering the comments of the judge who brought this matter to the Court's attention, the Court is considering amendments to Tenn. Sup. Ct. R. 10 to add RJC 3.15 to the list of exemptions set out in Sections III and V of the "Application" provisions. The proposed amendments are set out in the Appendix to this order.

The Court hereby solicits written comments regarding the proposed amendments from judges, lawyers, bar associations, members of the public, and any other interested parties. The deadline for submitting written comments is June 20, 2013. Written comments should be addressed to:

Mike Catalano, Clerk
Re: Tenn. Sup. Ct. R. 10, "Application"
Tennessee Appellate Courts
100 Supreme Court Building
401 7th Avenue North
Nashville, TN 37219-1407

and should reference the docket number set out above.

The Clerk shall provide a copy of this order to the Tennessee Bar Association, LexisNexis, and Thomson Reuters. In addition, this order shall be posted on the Court's website.

IT IS SO ORDERED.

PER CURIAM

APPENDIX

[Amend Tenn. Sup. Ct. R. 10, “Application,” as indicated below; proposed deleted text is indicated by overstriking and red font, and proposed new text is indicated by underlining and blue font:]

III. CONTINUING PART-TIME JUDGE

A judge who serves repeatedly on a part-time basis by election or under a continuing appointment is a “continuing part-time judge.” These include, but are not limited to, part-time judges, magistrates, referees, and judicial commissioners in the general sessions, juvenile, municipal and other courts. A continuing part-time judge:

(A) is not required to comply at any time with RJC’s 3.4 (Appointments to Governmental Positions), 3.8(A) (Appointments to Fiduciary Positions), 3.9 (Service as Arbitrator or Mediator), 3.10 (Practice of Law), ~~and~~ 3.11(B) (Financial, Business, or Remunerative Activities), and 3.15 (Reporting Requirements), and

(B) shall not practice law in the court on which the judge serves or in any court subject to the appellate jurisdiction of the court on which the judge serves, and shall not act as a lawyer in a proceeding in which the judge has served as a judge or in any other proceeding related thereto.

Comment

[1] When a person who has been a continuing part-time judge is no longer a continuing part-time judge, that person may act as a lawyer in a proceeding in which he or she has served as a judge or in any other proceeding related thereto only with the informed consent of all parties, and only to the extent authorized by the Rules of Professional Conduct.

[2] Although a continuing part-time judge is precluded from practicing law in any court subject to the appellate jurisdiction of the court on which the judge serves, this rule does not prevent the judge from practicing in a court to which an appeal lies from the judge’s court. For example, a part-time general sessions court judge may practice in circuit court so long as the proceeding is not one in which the judge served as a judge or a proceeding related thereto.

IV. [INTENTIONALLY OMITTED]

V. PRO TEMPORE PART-TIME JUDGE

28 A pro tempore part-time judge who serves or expects to serve once or only
29 sporadically on a part-time basis under a separate appointment for each period of service or
30 for each case heard is not required to comply:

31 (A) except while serving as a judge, with RJC's 2.4 (External Influences
32 on Judicial Conduct), 3.2 (Appearances before Governmental Bodies and
33 Consultation with Government Officials), and 4.1 (Political and Campaign
34 Activities of Judges and Judicial Candidates in General) (A)(1) through (7);
35 or

36 (B) at any time with RJC's 3.4 (Appointments to Governmental
37 Positions), 3.8(A) (Appointments to Fiduciary Positions), 3.9 (Service as
38 Arbitrator or Mediator), 3.10 (Practice of Law), ~~and~~ 3.11(B) (Financial,
39 Business, or Remunerative Activities), and 3.15 (Reporting Requirements).

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