



CIRCUIT COURT

PART II

SECOND JUDICIAL DISTRICT

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September 21, 2009

Administrative Office of the Courts
ATTN: Libby Sykes
Nashville City Center, Suite 600
511 Union Street
Nashville, TN 37219

Re: *Proposed revision of Tenn. Sup. Ct. R. 27*

Dear Ms. Sykes:

In Section III of Evaluation Criteria I have no objection with 3.01(a) integrity.

I would object to 3.01(b) if that section is read in such a way that the committee could substitute other things than those listed in 1, 2, and 3 or 3.01(a) because such would give unwarranted power to the committee.

I disagree with Section (c)(3) ability to communicate. I disagree that this is necessary because it is too broad and not verifiable. Further all appellate judges by law are required to file written opinions.

In regards to preparation and attentiveness, I would disagree with (d)(1) because this is usually based on personal opinion rather than verifiable fact. And, I disagree with (e)(1) efficient administrative law unless some definition is provided. As you are aware, many appellate judges receive terribly complicated cases, where other judges might not receive as complicated a case.

I disagree with (f)(2) commenting on the work of colleagues because this

would require an appellate judge breaking a confidence unless it was done in a formal opinion such as dissenting or explaining.

As to Section 4 - Evaluation Procedure for Appellate Judges. I disagree with 4.01 because it does not describe reliable evaluation systems. This should be clearly set out in Rule 27 of the Tennessee Rules of Supreme Court.

I disagree with 5.02 because it would require additional monies from the legislature and I fear these monies would be taken away from trial judges.

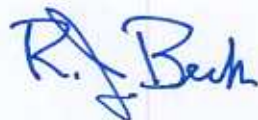
I disagree with 5.04 because such information would be insufficient for the commission to submit a recommendation.

I disagree with Section 6.01 regarding confidentiality. The commission should never accept a confidential report because it renders the appellate judge incapable of rebutting a confidential statement. What will result is unverifiable information regarding the appellate judge. Such a rule will subject the appellate judge to sour grapes comments that have no basis in fact. Appellate judges should be able to rebut unfounded, unwarranted and malicious claims.

Further, I believe that under law, it is my opinion that these are public records and should be open to the public with the names of any complaining party.

Perhaps unrelated to your survey, I would object to any evaluating committee that does not consist only of retired appellate judges or retired circuit level judges. Judges know how to judge other judges.

Yours truly,

A handwritten signature in blue ink that reads "R. Jerry Beck". The signature is written in a cursive style with a large initial "R." and a stylized "Beck".

R. Jerry Beck, Judge

RJB/pta



September 30, 2009

The Honorable Michael Catalano
Clerk, Tennessee Supreme Court
Supreme Court Building, Room 100
401 Seventh Avenue North
Nashville, TN 37219

IN RE: AMENDMENTS TO RULE 27 -
RULES OF THE TENNESSEE SUPREME COURT
No. M2009-01816-SC-RL2-RL

Dear Mike:

Attached please find an original and six copies of the Comment of the Tennessee Bar Association in reference to the above matter.

As always, thank you for your cooperation. I remain,

Very truly yours,

Allan F. Ramsaur
Executive Director

cc: Chief Justice Janice Holder, Tennessee Supreme Court
Justice Cornelia Clark, Tennessee Supreme Court
Justice Gary Wade, Tennessee Supreme Court
Justice William Koch, Tennessee Supreme Court
Justice Sharon Lee, Tennessee Supreme Court
The Honorable Carol McCoy, President, Tennessee Judicial
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The Honorable Telford Forgy, President, Tennessee Trial
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IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

FILED

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APPELLATE COURT CLERK
NASHVILLE

IN RE: AMENDMENTS TO RULE 27)
OF THE TENNESSEE)
SUPREME COURT)
)

No. M2009-01816-SC-RL2-RL

COMMENT OF THE TENNESSEE BAR ASSOCIATION

INTRODUCTION

The Tennessee Bar Association ("TBA"), by and through its President, Gail Vaughn Ashworth; General Counsel, William L. Harbison; and Executive Director, Allan F. Ramsaur, files this comment supporting adoption of the amendments to Tennessee Supreme Court Rule 27.

On September 3, 2009, this Honorable Court published for comment proposed revisions to Tennessee Supreme Court Rule 27. The Court invited public, written comment not later than September 30, 2009. The TBA supports the revisions to

Tennessee Supreme Court Rule 27 which are being made to conform to the recently enacted Public Chapter 517 of the Public Acts of 2009.

TBA policy supports judicial performance evaluation because of the role that it plays in enhancing public trust and confidence in the justice system. The TBA has advocated for performance evaluation as part of the merit selection and retention election process which was recently renewed by the Tennessee General Assembly. The TBA also pressed for a reconstituted Judicial Performance Evaluation Commission to conduct the formal public determination of whether a judge should be “retained” or “replaced” in the parlance of the new statute. The new statute requires that the Court, by rule, establish a Judicial Performance Evaluation Program for appellate judges. The revised rule accomplishes that purpose by appropriately addressing the changes to conform to the new statute.

Given the TBA’s longstanding policy, the TBA Executive Committee authorized the filing of this favorable comment supporting adoption of the amendments to Tennessee Supreme Court Rule 27.

RESPECTFULLY SUBMITTED,

By: /s/ by permission

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CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing has been served upon the individuals and organizations identified in Exhibit "A" by regular U.S. Mail, postage prepaid on September 30, 2009


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