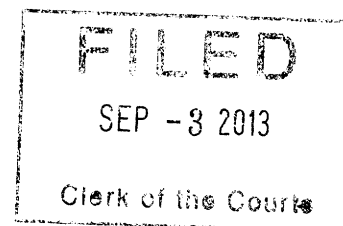


IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

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

No. M2013-01205-SC-RL2-RL



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) 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 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 filed an order on May 21, 2013, soliciting public comments on proposed amendments to Tenn. Sup. Ct. R. 10; the proposed amendments would add RJC 3.15 to the list of exemptions set out in Sections III and V of the "Application" provisions. The deadline for submitting written comments on the proposed amendments was June 20, 2013. The only written comment received by the Court was submitted by the Tennessee Bar Association, which stated its support of adoption of the proposed amendments.

After due consideration, the Court hereby adopts the amendments to Sections III and V of the "Application" provisions of the Code of Judicial Conduct, as set out in the attached Appendix. These amendments shall take effect upon the filing of this order.

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

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

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

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

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

(B) 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).