

# THE COURTS

## Title 207—JUDICIAL CONDUCT

### PART IV. COURT OF JUDICIAL DISCIPLINE

[ 207 PA. CODE CH. 1 ]

Amendment of the Rules of Procedure of the Court of Judicial Discipline; Doc. No. 1 JD 94

#### Order

*Per Curiam:*

And Now, this 23rd day of July, 2008, the Court, pursuant to Article 5, Section 18(b)(4) of the Constitution of Pennsylvania, having proposed to amend Rule of Procedure No. 121(C), as more specifically hereinafter set forth, *It Is Hereby Ordered:*

That Court Administrator Wanda W. Sweigart provide for the publication of the Amendment in the *Pennsylvania Bulletin*, and

That interested parties shall submit suggestions, comments or objections no later than thirty days from the publication of this Order in that *Bulletin*.

WILLIAM H. LAMB,  
*President Judge*

#### Annex A

### TITLE 207. JUDICIAL CONDUCT

#### PART IV. COURT OF JUDICIAL DISCIPLINE

##### ARTICLE I. PRELIMINARY PROVISIONS

##### CHAPTER 1. GENERAL PROVISIONS

##### DOCUMENTS GENERALLY

#### Rule 121. Filing; Docketing.

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(C) Unless otherwise ordered by the Court, or as otherwise provided by these rules, a filing shall consist of the original and [ 10 ] three (3) copies, **except, in the case of pleadings in excess of 20 pages, in which case an original and 10 copies are required.**

[Pa.B. Doc. No. 08-1452. Filed for public inspection August 8, 2008, 9:00 a.m.]

### PART II. CONDUCT STANDARDS

[ 207 PA. CODE CH. 51 ]

Amendment of Rule 15 of the Rules of Conduct for Magisterial District Judges; Magisterial Doc. No. 1; No. 246

#### Order

*Per Curiam:*

And Now, this 22nd day of July, 2008, upon recommendation of the Minor Court Rules Committee, the proposal having been submitted without publication pursuant to Pa.R.J.A. No. 103(a)(3) in the interest of justice and efficient administration, and a Final Report to be published with this *Order*:

*It Is Ordered* pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rule 15 of the Rules of Conduct for Magisterial District Judges be, and hereby is, amended to read as follows.

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective immediately.

WILLIAM H. LAUB,  
*President Judge*

#### Annex A

### TITLE 207. JUDICIAL CONDUCT

#### PART II. CONDUCT STANDARDS

##### CHAPTER 51. STANDARDS OF CONDUCT OF MAGISTERIAL DISTRICT JUDGES

##### PENNSYLVANIA RULES FOR MAGISTERIAL DISTRICT JUDGES

#### Rule 15. Public Office and Political Activity.

\* \* \* \* \*

D. With respect to their campaign conduct, magisterial district judges or candidates for such office shall:

\* \* \* \* \*

(3) not make pledges or promises of conduct in office other than the faithful and impartial performance of the duties of the office; make statements that commit [ **or appear to commit** ] the candidate with respect to cases, controversies or issues that are likely to come before the court; or misrepresent their identity, qualifications, present position, or other fact.

\* \* \* \* \*

#### FINAL REPORT

*Amendment to Rule 15 of the Rules of Conduct for Magisterial District Judges*

On July 22, 2008, effective immediately, upon recommendation of the Minor Court Rules Committee,<sup>1</sup> the Supreme Court of Pennsylvania approved an amendment to Rule 15 of the Rules of Conduct for Magisterial District Judges.<sup>2</sup>

#### I. Background

On March 17, 2008, the Supreme Court of Pennsylvania issued an Order amending Canon 7 B(1)(c) of the Code of Judicial Conduct.<sup>3</sup> The Order deleted the phrase "or appear to commit" from Canon 7B(1)(c). Pa.R.C.P.M.D.J. No. 15 is modeled, in part, upon Canon 7 of the Code of Judicial Conduct. Therefore, in order to maintain consistency between the Code of Judicial Conduct and the Rules of Conduct for Magisterial District Judges, the Minor Court Rules Committee ("Committee") agreed that an immediate amendment to Rule 15 was advisable.

<sup>1</sup> Minor Court Rules Committee Recommendation 7-2008.

<sup>2</sup> Supreme Court of Pennsylvania Order No. 246, Magisterial Docket No. 1, (July 22, 2008).

<sup>3</sup> Supreme Court of Pennsylvania Order No. 317, Judicial Administration Docket No. 1 (March 17, 2008).

## II. Discussion and Approved Rule Change

Although the commentary following M.D.J. No. 15 D(3) cites to *Republican Party of Minnesota v. White*, 122 S.Ct. 2528 (2002), the Committee felt that because of the Pennsylvania Supreme Court's removal of the clause "appear to commit" from Canon 7, similar action was needed in the Rules of Conduct. *Republican Party of Minnesota v. White* was a United States Supreme Court decision that found Minnesota's limits on judicial campaign speech unconstitutional. The commentary including the citation to *White* was added to Rule 15D(3) in November 2002.<sup>4</sup> At the same time, the Supreme Court of Pennsylvania removed language from Rule 15D(3), replacing it with the current language - "make statements that commit or appear to commit the candidate . . ."<sup>5</sup>

Despite the fact that the inclusion of a reference to *White* in the Rules of Conduct provides some guidance for magisterial district judges about their ability to comment on issues during political races, the Committee agreed that the language "or appear to commit" must be removed from Rule 15D(3) due to its corresponding removal from Canon 7. Therefore, the Committee recommended removal of that phrase.

[Pa.B. Doc. No. 08-1453. Filed for public inspection August 8, 2008, 9:00 a.m.]

## Title 25—LOCAL COURT RULES

### WARREN AND FOREST COUNTIES

#### Rule of Criminal Procedure—Sentencing Judge; Rule 700; No. 56 of 2008; Miscellaneous

##### Order

And Now, this 24th day of July, 2008, it is hereby Ordered that the Local Rule of Criminal Procedure Rule 700 for the 37th Judicial District composed of Forest and Warren Counties pertaining to the Sentencing Judge be, and the same hereby is, promulgated herewith, to be become effective 30 days after publication in the *Pennsylvania Bulletin*.

The Court Administrator of the 37th Judicial District is directed to:

(1) File seven (7) certified copies of this Order with the Administrative Office of Pennsylvania Courts.

<sup>4</sup> Supreme Court of Pennsylvania Order No. 137, Magisterial Docket No. 1, Book 2 (Nov. 21, 2002).

<sup>5</sup> The Court removed the phrase "announce his views on disputed legal or political issues." See Order No. 137, Magisterial Docket No. 1, Book 2 (Nov. 21, 2002).

(2) File two (2) certified copies and one disk copy with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

(3) File one (1) certified copy with the Pennsylvania Criminal Procedural Rules Committee.

(4) File one (1) copy with the Prothonotaries of the Court of the 37th Judicial District.

By The Court

WILLIAM F. MORGAN,  
President Judge

#### Rule 700. Sentencing Judge.

A sentence on a plea of guilty or *nolo contendere* may be imposed by a judge other than the judge who received the plea, if the defendant has been notified of the possibility at the time of entering the plea.

*Comment:* This rule is not intended to proscribe sentencing by a judge who did not receive the plea when there are extraordinary circumstances which preclude the presence of that judge.

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[Pa.B. Doc. No. 08-1454. Filed for public inspection August 8, 2008, 9:00 a.m.]

## DISCIPLINARY BOARD OF THE SUPREME COURT

### Notice of Hearing

A Petition for Reinstatement to the active practice of law has been filed by Bernard J. McBride, Jr. and will be the subject of a hearing on September 9, 2008, before a hearing committee designated by the Board. Anyone wishing to be heard in reference to this matter should contact the District I Office of the Disciplinary Board of the Supreme Court of Pennsylvania, 16th Floor, Seven Penn Center, 1635 Market Street, Philadelphia, PA 19103, (215) 560-6296, on or before August 29, 2008. In accordance with Board Rule § 89.274(b), since this formerly admitted attorney resides outside of the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

ELAINE M. BIXLER,  
Secretary  
The Disciplinary Board of the  
Supreme Court of Pennsylvania

[Pa.B. Doc. No. 08-1455. Filed for public inspection August 8, 2008, 9:00 a.m.]