



Caution

As of: November 28, 2018 7:51 PM Z

In re Comm. on Stds. of Conduct for Judges

Supreme Court of Florida

February 3, 1976

No. 48796

Reporter

327 So. 2d 5 *; 1976 Fla. LEXIS 4365 **

Petition of the COMMITTEE ON STANDARDS OF CONDUCT FOR JUDGES

Subsequent History: **[**1]** Supplemental Order February 23, 1976. As Amended March 31, 1976.

Core Terms

member of the committee, advisory opinion, vice-chairman, conferences, evidence of good faith, no opinion, non-judicial, inquiring, preside, elect

Judges: Adkins, C.J., and Roberts, Boyd, Overton, England, Sundberg and Hatchett, JJ., concur.

Opinion by: BY THE COURT

Opinion

[*5] BY THE COURT

Pursuant to the authority conferred in [Article V, sections 2\(b\)](#) and [15, Fla.Const.](#), there is created a Committee on Standards of Conduct Governing Judges, to be composed of three district court of appeal judges, four circuit judges, two county court judges, and one practicing member of The Florida Bar. The purpose of the Committee shall be to render written advisory opinions to inquiring judges concerning the propriety of contemplated judicial and non-judicial conduct.

1. The judges on the Committee shall be selected by their respective court conferences. The Bar member shall be selected by The Florida Bar's Board of Governors.

2. The members of the Committee shall elect a chairman and a vice-chairman, and each shall serve for a term of one calendar year. A majority vote of all of the members of the Committee shall be required to elect the

chairman and vice-chairman.

3. The chairman shall advise each of the chief judges of the several circuits as to the duties and obligations of **[**2]** the Committee, and he shall preside at all meetings. The vice-chairman shall preside in the absence of the chairman and exercise all powers delegated to him by the chairman.

4. A quorum for the transaction of any committee business, whether in a meeting or by circulated writing, shall be six members of the Committee. A majority of the members shall be required to concur in any advisory opinion issued by the Committee.

5. The Committee shall render advisory opinions to inquiring judges relating to the propriety of contemplated judicial and non-judicial conduct, but all opinions shall be advisory in nature only. No opinion shall bind the Judicial Qualifications Commission in any proceeding properly before that body. An opinion of the Committee may, however, in the discretion of the Commission, be considered as evidence of a good faith effort to comply with the Code of Judicial Conduct; provided that no opinion issued to one judge or justice shall be authority for the conduct, or evidence **[*6]** of good faith, of another judge or justice unless the underlying facts are identical. All opinions rendered by the Committee shall be in writing, and a copy of each opinion, together **[**3]** with the request therefor, shall be filed with the Clerk of the Supreme Court and with the chairman of the Judicial Qualifications Commission. All references to the name of the requesting judge shall be deleted.

6. No judge on the Committee shall participate in any matter before the Committee in which he has a direct or indirect interest.

7. Any determination of the propriety or impropriety of particular conduct by the Judicial Qualifications Commission shall supersede any conflicting opinion of the Committee.

8. Opinions of the Committee may be published, and compiled, by The Florida Bar.

ADKINS, C.J., and ROBERTS, BOYD, OVERTON, ENGLAND, SUNDBERG and HATCHETT, JJ., concur.

SUPPLEMENTAL ORDER

Supplementing our order creating a Committee on Standards of Conduct Governing Judges, we direct that the present members of such committee, who previously were appointed by their respective judicial conferences and the Board of Governors of The Florida Bar, shall serve until their successors are duly selected by their representative organizations.

It is so ordered.

ADKINS, C.J., and ROBERTS, BOYD, OVERTON, ENGLAND, SUNDBERG and HATCHETT, JJ., concur.



Neutral

As of: October 16, 2018 9:16 PM Z

In re Comm. on Stds. of Conduct for Judges

Supreme Court of Florida

February 1, 1979

No. 48796-C

Reporter

367 So. 2d 625 *; 1979 Fla. LEXIS 4552 **

PETITION OF THE COMMITTEE ON STANDARDS OF CONDUCT FOR JUDGES

Core Terms

recommendations, advisory opinion, Committee's, vice-chairman, proposals, changes, member of the committee, evidence of good faith, calendar year, time to time, no opinion, non-judicial, Succession, themselves, functions, inquiring, provides, succeed, elect, terms

Case Summary

Procedural Posture

The Committee on Standards of Conduct Governing Judges asked the court to amend or clarify four aspects of the order under which it was created and functioned.

Overview

The Committee on Standards of Conduct Governing Judges presented four issues to the court relating to the order under which it was created and functioned. The court, after carefully considering the subject areas presented, held that it would not alter the committee's name to designate it as a commission due to potential confusion of the committee with the Judicial Qualifications Commission, that the committee did not have the authority to render advisory opinions to the Judicial Qualifications Commission, that the committee did have the authority to recommend changes in the Code of Judicial Conduct, and that the chairman and vice-chairman could succeed themselves one time. The order establishing the committee was amended to reflect these changes.

Outcome

The court presented its views on issues suggested by the Committee on Standards of Conduct Governing Judges, concluding that it would not designate the

committee as a commission, that the committee did not have the authority to render advisory opinions, that the committee could recommend changes to the code of judicial conduct, and that certain officers were eligible to succeed themselves one time.

Opinion by: **[**1]** PER CURIAM

Opinion

[*625] Pursuant to our supervisory authority over the state judiciary,¹ this Court created **[*626]** a Committee on Standards of Conduct Governing Judges in February 1976 to "render written advisory opinions to inquiring judges concerning the propriety of contemplated judicial and non-judicial conduct."² Through its chairman, that Committee has now asked the Court to amend or clarify four specific aspects of the order under which it was established and presently functions. We have carefully considered each of the subject areas presented.

1. *Name Change.* The Committee proposes that it be designated as a "Commission" rather than Committee. The functions of the Committee were designed to parallel those of The Florida Bar's Professional Ethics Committee, which provides advisory opinions to members of the Bar on the propriety of proposed conduct. **[**2]** In light of our disinclination to expand the Committee's authority (see paragraph 2(a) below), and to avoid any confusion that might result if the name of the committee were similar to that of the Judicial Qualifications Commission, we decline to alter the name of the Committee at this time.

2. *Powers.* (a) The Committee asks whether it has the

¹ [Art. V, §§ 2\(b\), 15, Fla.Const.](#)

² [Petition of the Committee on Standards of Conduct for Judges, 327 So.2d 5, 5 \(Fla. 1976\).](#)

authority to render advisory opinions to the Judicial Qualifications Commission. We respond in the negative. The scope of the Committee's authority was carefully confined to advisory opinions to judges concerning "contemplated" conduct. We can conceive of no way in which the Commission, or any of its members, could be legitimately concerned with proposed acts of the members of the judiciary, and advice on any other subject to the Commission would exceed the Committee's authority.

(b) The Committee asks whether its power includes the authority to recommend changes in the Code of Judicial Conduct to this Court, in light of the experience it has developed interpreting the Code of Judicial Conduct. Just as committees of the Bar develop expertise and discern problems with our rules of procedure which lead to recommendations for changes, so **[**3]** too would the Committee be a natural body to make Code change recommendations to the Court. The Committee may, therefore, from time to time submit formal proposals and recommendations to the Court regarding the Code of Judicial Conduct. Recommendations for Code changes is not, however, the principal or primary purpose of the Committee.

3. *Succession.* Our original order provides that the chairman and vice-chairman "shall serve for a term of one calendar year," without addressing succession. The Committee is in doubt as to whether these officers are eligible to succeed themselves. We hold that they may succeed themselves one time, so that any officer of the Committee may serve two successive one-year terms.

Accordingly, paragraphs 2 and 5 of the Court's order establishing the Committee are amended to read (underlining signifies additions):

2. The members of the Committee shall elect a chairman and a vice-chairman, and each shall serve for a term of one calendar year. No officer shall serve more than two successive terms. A majority vote of all of the members of the Committee shall be required to elect the chairman and vice-chairman.

5. The Committee shall render advisory **[**4]** opinions to inquiring judges relating to the propriety of contemplated judicial and nonjudicial conduct, but all opinions shall be advisory in nature only. No opinion shall bind the Judicial Qualifications Commission in any proceeding properly before that body. An opinion of the Committee may, however, in the discretion of the Commission, be considered

as evidence of a good faith effort to comply with the Code of Judicial Conduct; provided that no opinion issued to one judge or justice shall be authority for the conduct, or evidence of good faith, of another judge or justice unless the underlying facts are identical. All opinions rendered by the Committee shall be in writing, and a copy of each opinion, together with the request therefor, shall be filed with the **[*627]** Clerk of the Supreme Court and with the chairman of the Judicial Qualifications Commission. All references to the name of the requesting judge shall be deleted. In addition, the Committee may from time to time submit to the Supreme Court formal proposals and recommendations relating to the Code of Judicial Conduct.

ENGLAND, C. J., and BOYD, OVERTON, SUNDBERG, HATCHETT and ALDERMAN, JJ., concur.

Dissent by: ADKINS **[**5]** (In part)

Dissent

ADKINS, Justice, concurs in part and dissents in part:

I would change the name from "Committee" to "Commission." Otherwise, I concur.

End of Document



Neutral

As of: October 16, 2018 9:18 PM Z

In re Comm. on Stds. of Conduct Governing Judges

Supreme Court of Florida

September 4, 1997, Decided

No. 90,133

Reporter

698 So. 2d 834 *; 1997 Fla. LEXIS 1351 **; 22 Fla. L. Weekly S 552

PETITION OF THE COMMITTEE ON STANDARDS OF CONDUCT GOVERNING JUDGES.

Prior History: [**1] Original Proceeding - Committee on Standards of Conduct of Judges.

Core Terms

evidence of good faith, requests, advisory opinion, enabling, member of the committee, vice-chairman, Advisory, believes, county judge, no opinion, recommendations, non-judicial, conferences, amendments, good-faith, inquiring, APPENDIX, preside, agrees, duties, elect

Case Summary

Procedural Posture

Petitioner, state judicial advisory committee, requested certain amendments to its enabling authority that included a change in its name, the addition of a third county judge to serve on the committee, and the right to expect that a judge's actions in accordance with an opinion of the committee should be considered evidence of a good-faith effort to comply with the code of judicial conduct.

Overview

Petitioner, state judicial advisory committee, requested certain amendments to petitioner's enabling authority. Petitioner requested that its name be changed to the judicial ethics advisory committee, which was more descriptive of petitioner's duties. Petitioner also requested that its enabling authority be amended to authorize three county judges to serve on the committee. Petitioner pointed out that the court had previously approved the addition of a third county judge by letter but had not issued a formal amendment. Finally, petitioner requested that its enabling authority be changed to provide that a judge who acted according

to petitioner's opinions should have the right to expect that the judicial qualifications commission (JQC) would consider such action as evidence of a good-faith effort to comply with the judicial conduct code. All of petitioner's requests were granted except the last request, which was denied because while the court, in its review of JQC recommendations, would consider such conduct as evidence of good faith, the court was not able to mandate that the JQC do so.

Outcome

The court approved petitioner's requests to change its name and for the addition of a third judge. The court denied the request that a judge's actions in accordance with petitioner's opinions be considered evidence of a good faith effort to comply with the judicial conduct code because the judicial qualifications commission was a separate constitutional body over which the court's authority was limited by [Fla. Const. art. V, § 12](#).

LexisNexis® Headnotes

Governments > Courts > Authority to Adjudicate

[HN1](#) [↓] Courts, Authority to Adjudicate

The supreme court of Florida recognizes that the judicial qualifications commission (JQC) is a separate constitutional body and that the court has only such authority over the JQC as authorized by [Fla. Const. art. V, § 12](#).

Counsel: Honorable Charles J. Kahn, Jr., Chairman, Committee on Standards of Conduct Governing Judges, Tallahassee, Florida, for Petitioner.

Anthony V. Pace, Jr., Boca Raton, Florida, Responding.

Judges: KOGAN, C.J., and OVERTON, SHAW, GRIMES, HARDING, WELLS and ANSTEAD, JJ., concur.

Opinion

[*834] PER CURIAM.

The Committee on Standards of Conduct Governing Judges (Committee) has requested certain amendments to the Committee's enabling authority as established in [Petition of Committee on Standards of Conduct for Judges, 327 So. 2d 5 \(Fla. 1976\)](#), and amended in [Petition of Committee on Standards, etc., 367 So. 2d 625 \(Fla. 1979\)](#).

The Committee requests that its name be changed to Judicial Ethics Advisory Committee, which is more descriptive of the Committee's duties. The Committee also requests that the enabling authority be amended to authorize three county judges to serve on the Committee. The Committee points out that the Court had previously approved the addition of a third county judge by letter from the Chief Justice dated June **[**2]** 23, 1993, but had not issued a formal amendment. We approve both of these requests.

The Committee's third request pertains to paragraph 5 of the enabling authority which now provides that an opinion of the Committee may in the discretion of the Judicial Qualifications Commission (JQC) be considered as evidence of a good-faith effort to comply with the Code of Judicial Conduct. The Committee agrees that the JQC should not be bound by an advisory opinion. However, the Committee believes that a judge who requests and acts according to a Committee opinion has the right to expect the JQC to consider such action as evidence of a goodfaith effort to comply with the Code of Judicial Conduct. The Court agrees with the Committee's reasoning and believes that the JQC in its deliberations does view a judge's actions which are in accordance with a Committee opinion as evidence of good faith. However, [HN1](#) the Court also recognizes that the JQC is a separate constitutional body and that this Court has only such authority over the JQC as authorized by [article V, section 12 of the Florida Constitution](#). While this Court in its review of JQC recommendations for discipline will consider such conduct as evidence **[**3]** of good faith, the Court believes that it cannot mandate the JQC to do so. Accordingly, the Committee's third request is denied. We have made a slight change in the language of

paragraph 5 to ensure that only action in accordance with a committee opinion could be considered as evidence of good faith.

The enabling authority for the Committee is hereby amended as reflected in the appendix attached hereto. These amendments **[*835]** shall be effective when this opinion becomes final.

It is so ordered.

KOGAN, C.J., and OVERTON, SHAW, GRIMES, HARDING, WELLS and ANSTEAD, JJ., concur.

APPENDIX

[EDITOR'S NOTE: TEXT WITHIN THESE SYMBOLS [O> <O] IS OVERSTRUCK IN THE SOURCE. TEXT IN ITALICS IS UNDERLINED IN THE SOURCE.]

Pursuant to the authority conferred in Article V, sections 2(b) and 15, [O>Florida Constitution<O], there is created a [O>Committee on Standards of Conduct Governing Judges<O] Judicial Ethics Advisory Committee, to be composed of three district court of appeal judges, four circuit judges, [O>two<O] *three* county court judges, and one practicing member of The Florida Bar. The purpose of the Committee shall be to render written advisory opinions to inquiring judges concerning the propriety of contemplated judicial **[**4]** and non-judicial conduct.

1. The judges on the Committee shall be selected by their respective court conferences. The Bar member shall be selected by The Florida Bar's Board of Governors.
2. The members of the Committee shall elect a chairman and a vice-chairman, and each shall serve for a term of one calendar year. No officer shall serve more than two successive terms. A majority vote of all of the members of the Committee shall be required to elect the chairman and vice-chairman.
3. The chairman shall advise each of the chief judges of the several circuits as to the duties and obligations of the Committee, and he shall preside at all meetings. The vice-chairman shall preside in the absence of the chairman and exercise all powers delegated to him by the chairman.
4. A quorum for the transaction of any committee business, whether in a meeting or by circulated writing, shall be six members of the Committee. A majority of

the members shall be required to concur in any advisory opinion issued by the Committee.

5. The Committee shall render advisory opinions to inquiring judges relating to the propriety of contemplated judicial and nonjudicial conduct, but all opinions shall be advisory **[**5]** in nature only. No opinion shall bind the Judicial Qualifications Commission in any proceeding properly before that body. *Actions in accordance with* [O>A<O]an opinion of the Committee may, however, in the discretion of the Commission, be considered as evidence of a good faith effort to comply with the Code of Judicial Conduct; provided that no opinion issued to one judge or justice shall be authority for the conduct, or evidence of good faith, of another judge or justice unless the underlying facts are identical. All opinions rendered by the Committee shall be in writing, and a copy of each opinion, together with the request therefor, shall be filed with the Clerk of the Supreme Court and with the chairman of the Judicial Qualifications Commission. All references to the name of the requesting judge shall be deleted. In addition, the Committee may from time to time submit to the Supreme Court formal proposals and recommendations relating to the Code of Judicial Conduct.

6. No judge on the Committee shall participate in any matter before the Committee in which he has a direct or indirect interest.

7. Any determination of the propriety or impropriety of particular conduct **[**6]** by the Judicial Qualifications Commission shall supersede any conflicting opinion of the Committee.

8. Opinions of the Committee may be published[O>,<O] and compiled[O>,<O] by The Florida Bar.