

Serial: **93315**

IN THE SUPREME COURT OF MISSISSIPPI

No. 89-R-99014-SCT

RE: MISSISSIPPI COMMISSION ON JUDICIAL PERFORMANCE RULES

ORDER

This matter has come before the Court en banc on petition of the Commission on Judicial Performance for consideration of a proposed amendment to Rule 4 of the Rules of the Mississippi Commission on Judicial Performance. Having considered the proposal, the Court finds that the amendment of such rule as set out herein, with the addition of a Comment thereto and to Rule 8F will promote the fair and efficient administration of justice, and that such amendment and Comments should be adopted.

IT IS THEREFORE ORDERED that petition is granted to the extent set forth herein, and that Rule 4 of Rules of the Mississippi Commission on Judicial Performance be and is hereby amended as shown in Exhibit "A" hereto.

IT IS FURTHER ORDERED that the Comment to Rule 8F of the Rules of the Mississippi Commission on Judicial Performance as set forth in Exhibit "B" hereto be and is hereby adopted.

IT IS FURTHER ORDERED that the Clerk of this Court shall spread this order upon the minutes of the Court and shall forward a true certified copy hereof to West Publishing Company for publication in the next edition of the *Mississippi Rules of Court* and in the *Southern Reporter, Second Series, (Mississippi Edition)*.

SO ORDERED, this the 1st day of March, 2002.

/s/ William L. Waller, Jr.

WILLIAM L. WALLER, JR., JUSTICE,

FOR THE COURT

McRae, PJ. and Graves, J. would deny.

EXHIBIT "A"

RULE 4. CONFIDENTIALITY

A. All Proceedings. All proceedings before the Commission shall be confidential, except upon unanimous vote of the Commission, as prescribed in Section 177A of the Mississippi Constitution of 1890. Confidentiality shall attach upon the initiation of an inquiry and shall include all records, files and reports of the Commission. ~~When the Commission makes a recommendation for discipline or retirement to the Supreme Court, the charges and recommendation of the Commission shall be public in accordance with the Constitution.~~ All proceedings before the Supreme Court and any final decisions made by the Supreme Court shall be made public as in other cases at law. However, an appeal from a private admonishment by the Commission shall be confidential unless on appeal the Supreme Court imposes sanctions harsher than the private admonishment.

B. Disclosure. By unanimous vote, the Commission may waive confidentiality and disclose such information deemed appropriate by the Commission. Such action may be taken upon the Commission's own motion or upon written request of the judge.

C. Violation by Staff. Employment of the executive director or any member of the staff may be terminated for violation of confidentiality.

[Amended March 7, 2002.]

Comment

Proceedings before the Commission and the Court in matters of judicial discipline are governed by Section 177A of the Mississippi Constitution. Generally, unless the Commission unanimously votes to make its proceedings public, they remain confidential. However, except in the case of an appeal by a judge of a private admonishment issued by the Commission against that judge, and in cases where the Court expressly seals the record following a private reprimand issued by the Court after the Commission has filed recommendations for more severe sanctions, proceedings before the Court and decisions of the Court are public.

[Adopted March 7, 2002.]

EXHIBIT "B"

Comment to Rule 8F of the Rules of the Mississippi Commission on Judicial Performance

Comment

Disciplinary recommendations to the Supreme Court by the Commission may range from removal from office down to public censure or reprimand. Although the Commission generally does not impose disciplinary sanctions, but rather makes findings and recommendations for submission to the Supreme Court, it may, under Rule 6, dismiss cases or impose the lesser sanction of a private admonishment, without action by the Supreme Court. In the case of private admonishment, the Commission will notify the Chief Justice of the Supreme Court of its action.

[Comment adopted March 7, 2002.]