Fantastical Ethical Failures
(and how to avoid them)

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Scott Kimberly
Attorney at Law
scott@murfreesborolawyer.com

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Presentation Overview

- The Law & The Rules
- Judicial Complaints
- Examples & Explanations

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The Law & The Rules

T.C.A. § 40-1-111
Appointment of Judicial Commissioners

… whose duty or duties shall include, but not be limited to, the following:

- *(i)* ***Issuance of search warrants and felony arrest warrants*** *upon a finding of probable cause and pursuant to requests from on-duty law enforcement officers and in accordance with the procedures outlined in chapters 5 and 6 of this title;*
- *(ii)* ***Issuance of mittimus*** *following compliance with the procedures prescribed by § 40-5-103;*
- *(iii) The* ***appointing of attorneys for indigent defendants*** *in accordance with applicable law and guidelines established by the presiding general sessions judge of the county;*
- *(iv) The* ***setting and approving of bonds*** *and the release on recognizance of defendants in accordance with applicable law and guidelines established by the presiding general sessions judge of the county; and*
- *(v)* ***Issuance of injunctions and other appropriate orders*** *as designated by the general sessions judges* ***in cases of alleged domestic violence****.*

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The Law & The Rules

T.C.A. § 40-1-111 – Name That County!

(a)(1)(B)(iii) – "…any county having a population of not less than one hundred eighty-three thousand one hundred (183,100) nor more than one hundred eighty-three thousand two hundred (183,200), according to the 2010 federal census."

WILLIAMSON COUNTY

(b)(1) – "… a county having a population of not less than fourteen thousand seven hundred (14,700) nor more than fourteen thousand eight hundred (14,800), according to the 1970 federal census."

SCOTT COUNTY

(d)(1) – "… any county having a population of not less than forty-one thousand four hundred (41,400) nor more than forty-one thousand six hundred (41,600), according to the 1990 federal census."

ROBERTSON COUNTY

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The Law & The Rules

T.C.A. § 40-1-111 – Name That County!

(e)(1) – "… any county having a population of not less than three hundred seven thousand (307,000) nor more than three hundred eight thousand (308,000), according to the 2000 federal census."

HAMILTON COUNTY

(g)(1) – "… any county with a population not less than two hundred seventy-six thousand (276,000) nor more than two hundred seventy-seven thousand (277,000), according to the 1970 federal census."

KNOX COUNTY

(h)(1) – "… any county having a population of not less than four hundred thirty-two thousand two hundred (432,200) nor more than four hundred thirty-two thousand three hundred (432,300), according to the 2010 federal census."

KNOX COUNTY

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The Law & The Rules

Tennessee Supreme Court Rule 10
Code of Judicial Conduct

Preamble

[1] An independent, fair and impartial judiciary is indispensable to our system of justice…

[2] Judges should maintain the dignity of judicial office at all times, and avoid both impropriety and the appearance of impropriety in their professional and personal lives…

[3] The Code of Judicial Conduct establishes standards for the ethical conduct of judges and judicial candidates… The Code is intended… [to] provide a basis for regulating their conduct through disciplinary agencies.

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The Law & The Rules

Tennessee Supreme Court Rule 10
Code of Judicial Conduct

Application

A judge, within the meaning of this Code, is anyone who is authorized to perform judicial functions, including but not limited to an officer such as a magistrate, referee, court commissioner, ***judicial commissioner****, special master, or an administrative judge or hearing officer.*

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The Law & The Rules

Tennessee Supreme Court Rule 10
Code of Judicial Conduct

RULE 1.1 Compliance with the Law
A judge shall comply with the law, including the Code of Judicial Conduct.

RULE 1.3 Avoiding Abuse of the Prestige of Judicial Office
A judge shall not abuse the prestige of judicial office to advance the personal or economic interests of the judge or others, or allow others to do so.

RULE 2.2 Impartiality and Fairness
A judge shall uphold and apply the law, and shall perform all duties of judicial office fairly and impartially.

Fantastical Ethical Failures
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The Law & The Rules

Tennessee Supreme Court Rule 10
Code of Judicial Conduct

RULE 2.3 Bias, Prejudice, and Harassment

(A) A judge shall perform the duties of judicial office, including administrative duties, without bias or prejudice.

(B) A judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, or engage in harassment, including but not limited to bias, prejudice, or harassment based upon race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation, and shall not permit court staff, court officials, or others subject to the judge's direction and control to do so.

Fantastical Ethical Failures
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The Law & The Rules

Tennessee Supreme Court Rule 10
Code of Judicial Conduct

Rule 2.5 Competence, Diligence, and Cooperation

(A) A judge shall perform judicial and administrative duties competently, promptly and diligently.

Rule 2.8 Decorum, Demeanor, and Communication with Jurors

(A) A judge shall require order and decorum in proceedings before the court.

(B) A judge shall be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, court staff, court officials, and others with whom the judge deals in an official capacity, and shall require similar conduct of lawyers, court staff, court officials, and others subject to the judge's direction and control.

Fantastical Ethical Failures
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The Law & The Rules

Tennessee Supreme Court Rule 10
Code of Judicial Conduct

Rule 2.9 Ex Parte Communications

(A) A judge shall not initiate, permit, or consider ex parte communications, or consider other communications made to the judge outside the presence of the parties or their lawyers, concerning a pending or impending matter, except as follows…

Rule 2.11 Disqualification

(A) A judge shall disqualify himself or herself in any proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to the following circumstances:

Fantastical Ethical Failures
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Judicial Complaints

NATURE OF COMPLAINTS RECEIVED
(7/1/11 to 6/30/12)

Failure to Comply with Law	236
Bias, Prejudice, Unfairness	37
Abuse of Office	18
Delay	16
Miscellaneous	14
Discourtesy	10
Conflict of interest	6
Ex Parte Communication	6
Recusal	6
Disability	5
Political Violation	1

Fantastical Ethical Failures
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Judicial Complaints

Fantastical Ethical Failures
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Judicial Complaints
Two Things for Peace of Mind

1 – Less Than 4% of Complaints Result in Discipline

DISPOSITIONS (7/1/11 to 6/30/12)

Dismissal by Disciplinary Counsel (Summary not Appealed)……..201
Dismissal after preliminary investigation……63
Dismissal with warning after preliminary investigation……....3
Dismissal after appeal of summary dismissal…….. ...87
Dismissal after full investigation without trial……..... .1
Public Reprimand ……..…….....12
Private Reprimand……..……... 3
Other…….……..….... ..10

2. 2025 YTD Commissioner Complaints: 0

Fantastical Ethical Failures
(and how to avoid them)

Judicial Complaints

ACCUSED JUDGES
(7/1/11 to 6/30/12)

General Sessions	85	Other	8
Circuit	81	Referee	8
Criminal	78	Supreme Court	8
Chancery	33	**Commissioners**	**4**
Juvenile	16	Municipal	4
Magistrate	16	Special Judges	3
Appellate	8	Probate	3

Fantastical Ethical Failures
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Examples & Explanations

"You May Pay the Court…"

- Accepted a guilty plea in which the defendant had struck and damaged ***the judge's personal vehicle***.
- As a condition of accepting the plea, the judge ordered restitution ***to the judge*** in the amount of $590.19.
- The defendant was *pro se*, did not speak English, and an interpreter translated the proceedings.
- No lawyers were involved in the case and a recording of the hearing reveals that restitution as a condition of the guilty plea was ***solely the judge's idea***.
- Judge later set aside the plea and a different judge dismissed the case. The judge did not ultimately receive any money.

Fantastical Ethical Failures
(and how to avoid them)

Examples & Explanations

Putnam County, 2024

- **RPC 1.1** – "A judge shall comply with… the Code of Judicial Conduct."
- **RPC 1.2** – " A judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety."
- **RPC 1.3** – "A judge shall not abuse the prestige of judicial office to advance the personal or economic interests of the judge…"
- **RPC 2.11(A)** – "A judge shall disqualify himself or herself in any proceeding in which the judge's impartiality might be reasonably questioned..."

Fantastical Ethical Failures *(and how to avoid them)*

Examples & Explanations

One too many subpoena coladas…

- Stopped by law enforcement for erratic driving.
- Failed field sobriety tests, arrested for DUI
- Also cited for Violation of Implied Consent
- Pled guilty to DUI, First Offense, and sentenced accordingly

Fantastical Ethical Failures
(and how to avoid them)

Examples & Explanations

Sullivan County, 2024

- **RPC 1.1** – "A judge shall comply with the law, including the Code of Judicial Conduct."
- **RPC 1.2** – " A judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety."
- **RPC 3.1(A)** – Prohibiting personal activities that would interfere with the proper and timely performance of the judge's duties.
- **Board of Judicial Conduct:** "When any judge, but especially a judge who adjudicates substance abuse matters and traffic violations, is convicted of DUI or related offense, respect for the judiciary and the administration of justice suffers."

Fantastical Ethical Failures *(and how to avoid them)*

Examples & Explanations

Press Conferences from the Bench

- Judge held a campaign event in the courtroom and invited the media
- During the event, judge stood in front of the bench and accepted an endorsement from a lawyer
- Judge announced that he could make a "campaign speech" and then proceeded to do so
- Asked anyone seeing the press conference to vote for him
- Took election-related questions from media, including questions about opponent

Fantastical Ethical Failures *(and how to avoid them)*

Examples & Explanations

Knox County, 2023

- **RPC 3.1(E)** – A judge may not "make inappropriate use of court premises, staff, stationery, equipment, or other resources."
- **RPC 1.3** – Judge "shall not abuse the prestige of judicial office to advance the personal or economic interests of the judge or others, or allow others to do so."
- **RPC 1.2** – " A judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety."
- **Board of Judicial Conduct:** "You should have known that it was improper to hold a campaign event in your courtroom. In doing so, you leveraged judicial office for your own purposes, which the ethics rules prohibit."

Fantastical Ethical Failures *(and how to avoid them)*

Examples & Explanations

Country Justice

- In a hearing, judge called a litigant a "tough guy"
- Judge stated that he hoped he would run into someone like the litigant one day
- Judge told the litigant that "if somebody called [your] grandfather a SOB we would be in more than a cuss fight, we would be in a fist fight, and probably to the death"
- Judge allegedly mocked the litigant's wife's physical disability by impersonating her movements
- Judge told the daughter of the litigant to "shut up" as the daughter tried to explain her mother's neurological disability, and thus the reason for uncontrolled hand and arm movements in court.

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Examples & Explanations

Meigs County, 2023

- **Preamble –** Judges are expected to maintain the highest standards of conduct and the dignity of judicial office at all times, including the specific responsibility of being dignified and courteous to those with whom the judge deals in an official capacity.
- **RPC 1.2 –** " A judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety."
- **Board of Judicial Conduct:** "Regardless of how rude or disrespectful a participant in a legal proceeding may be, the judge cannot reciprocate"

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THE END!

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