

VOL 27 ISS 1 | VI | JUDICIAL IMMUNITY FROM CRIMINAL LIABILITY

A. General Rule of No Immunity

But for one narrow exception,¹⁴⁸ judicial immunity does not exempt judges from criminal liability.¹⁴⁹ Courts have stated unequivocally that the judicial title does not render its holder immune from responsibility even when the criminal act is committed behind the shield of judicial office.¹⁵⁰ As is the case regarding immunity from civil liability,¹⁵¹ immunity from criminal liability does not extend to nonjudicial acts or acts taken in the clear absence of all jurisdiction.¹⁵² Even beyond such acts, however, judicial immunity generally is not available for criminal behavior. For instance, judicial immunity does not shield judges from criminal liability for fraud or corruption, or for soliciting or accepting bribes.¹⁵³ This is as it should be; although important, the purposes of the doctrine of judicial immunity are not so important that they transcend the function of the criminal law to protect the public from crime, especially crime as egregious as fraud, corruption, or bribery. As a consequence, judicial immunity normally stops short of protecting criminal behavior.

The one area where judges can be said to enjoy immunity from criminal liability is for malfeasance or misfeasance in the performance of judicial tasks undertaken in good faith.¹⁵⁴ In some states malfeasance or misfeasance in office is made criminal either by statute or common law rule.¹⁵⁵ However, this criminal liability will be precluded by judicial immunity unless the malfeasance or misfeasance is accompanied by bad faith.¹⁵⁶

Furthermore, even in this area, judicial immunity will not be granted for malfeasance or misfeasance by a judicial officer in the performance of an act that is administrative in character rather than (1983); *Heyn v. Massachusetts Bonding & Ins. Co.*, 110 S.W.2d 261 (Tex. 1937). judicial. In *Ex Parte Virginia*,¹⁵⁷ the Supreme Court ruled that judicial immunity would not be given to a judge indicted for excluding qualified black persons from jury lists because the selection of jurors was an administrative task, not a judicial one.¹⁵⁸ As previously noted, the nonjudicial nature of jury selection is indicated in that it is a task often performed by nonjudicial personnel and, indeed, is one that could be performed by private persons.¹⁵⁹ Given the ministerial character of jury selection, the court ruled, the judge was not protected by judicial immunity from criminal liability.¹⁶⁰



The Supreme Court's decision in Ex Parte Virginia apparently was overlooked in Commonwealth v. Tartar,¹⁶¹ in which the Kentucky Court of Appeals ruled that a judge was entitled to immunity from criminal misfeasance for improperly certifying a list of grand jurors whose names had not been drawn from a jury wheel or drum as required by law. Although the judge's action in this case would seem to be no less a ministerial task than the judge's action in Ex Parte Virginia, the Tartar court made no mention of the thought that certification of jurors might be a nonjudicial task not covered by immunity. While the situation in Tartar, unlike that in Ex Parte Virginia, did not involve the pernicious behavior of racial discrimination, the supposedly controlling factor in granting immunity is whether the act in question is judicial or administrative; in that respect, the cases appear to be indistinguishable.

Except for cases involving malfeasance or misfeasance in office, claims of judicial immunity for criminal behavior are unavailing. Hence, in Braatelian v. United States,¹⁶² it was held that a judge could not claim immunity from a criminal charge of conspiring to defraud the government. The court pointed out that the judge in question had not been indicted for an erroneous or even wrongful judicial act, but for criminal behavior that was distinct from his official functions.¹⁶³ The court noted that the crime could have been completed without the performance of a single judicial act by the judge and, therefore, amounted to nonjudicial behavior beyond the bounds of immunity.¹⁶⁴ Moreover, the court stated that judges may be held criminally responsible for fraud or corruption because judicial immunity provides no cloak for criminal behavior.¹⁶⁵

Immunity from criminal liability was also found not to exist in McFarland v. State,¹⁶⁶ in which a judge not only collaborated with a criminal defendant to wrongfully secure the defendant's release by issuing a void writ of habeas corpus, but also improperly cited another judge for disregarding the void writ. For engaging in these actions, the judge was charged with the crime of constructive contempt, and on appeal to the Supreme Court of Nebraska it was ruled that the judge could not claim immunity for this sort of behavior because it was nonjudicial in nature. Indeed, the Nebraska high court made the statement that "[t]o say that such conduct was outside the realm of judicial action is to put it mildly."¹⁶⁷ This statement, though, is questionable. Although the court undoubtedly was correct in saying that the judge acted fraudulently and corruptly, and that he unlawfully attempted to interfere with a criminal proceeding, the fact remains that the judge did so, at

least in part, by issuing a writ and a contempt citation - both of which are actions that judges normally perform, and that would usually be considered judicial functions. However, the court was on more solid ground in noting that the judge acted in the absence of jurisdiction, and that judicial immunity does not extend to this sort of criminal behavior."¹⁶⁸

Judges need not be impeached before being indicted and tried on criminal charges.¹⁶⁹ Even federal judges, who "hold their Offices during good Behavior"¹⁷⁰ under article III of the Constitution, may be criminally prosecuted while still in office. The Constitution does not bar the trial of a judge for alleged crimes committed before or after taking office. The tenure granted to federal judges by article III is not meant to give shelter to criminal behavior, and therefore, impeachment of a judge is not a prerequisite to criminal prosecution.¹⁷¹

B. Criminal Activity as Grounds for Removal from Judicial Office or Other Disciplinary Sanctions

In some states it is provided by constitutional enactment, statute, or supreme court rule that conviction of a judge of certain crimes operates to automatically remove the judge from office. The content of these provisions differ slightly: most mandate removal from office upon conviction of a felony,¹⁷² others upon conviction of a crime involving moral turpitude,¹⁷³ and yet others upon conviction of an "infamous" crime.¹⁷⁴ Essentially, they all provide for removal from office of judges who have been convicted of committing a serious crime. Under these provisions, judges have been removed from office for engaging in mail fraud,¹⁷⁵ racketeering,¹⁷⁶ bribery,¹⁷⁷ extortion,¹⁷⁸ obstructing justice,¹⁷⁹ assault,¹⁸⁰ and other felonies or serious crimes.¹⁸¹ These provisions ordinarily do not allow judges to challenge their convictions as being erroneous; once a conviction becomes final, that in itself will operate to require a forfeiture of the judicial office¹⁸² and may also disqualify the convicted judge from holding office in the future.¹⁸³

Some provisions further direct that if a judge is indicted on a serious criminal charge, the judge will be suspended from office, pending final adjudication of the charge.¹⁸⁴ It has been held that such suspensions, even though they occur prior to a determination of guilt, do not violate the due process clause because of the overriding public interest in ensuring an upstanding judiciary.¹⁸⁵ During the period of suspension, a judge may continue to be

entitled to receive his or her salary.¹⁸⁶ But once a criminal conviction becomes final, permanent forfeiture of office will occur and the payment of salary will be terminated.¹⁸⁷

Criminal behavior on the part of a judge also may run afoul of the Code of Judicial Conduct. Criminal conduct is an affront to canon 1 of the Code, which requires judges to uphold the integrity of the judiciary and to observe high standards of behavior.¹⁸⁸ Criminal conduct further offends canon 2, which requires judges to avoid impropriety and the appearance of impropriety in all of their activities.¹⁸⁹ Indeed, criminal activity obviously contravenes both of these canons by undermining public confidence in the judiciary and impairing the administration of justice.¹⁹⁰

A wide variety of crimes have been held to violate the Code of Judicial Conduct when committed by a judge. They include tax evasion,¹⁹¹ receiving stolen goods,¹⁹² contributing to the delinquency of a minor,¹⁹³ driving under the influence of alcohol,¹⁹⁴ use of illegal drugs,¹⁹⁵ jury tampering,¹⁹⁶ racketeering,¹⁹⁷ battery,¹⁹⁸ resisting police officers,¹⁹⁹ and welfare fraud.²⁰⁰ These are but some of the criminal actions that have been found to violate the Code of Judicial Conduct.

Some courts have held that even in the absence of a criminal conviction, a judge may violate the Code of Judicial Conduct if it merely appears that the judge has committed a crime. This occurred in *In re Killam*,²⁰¹ in which a judge was charged with driving under the influence of alcohol. At his criminal trial, the judge admitted facts sufficient to establish a finding of guilt on the charge, but the trial court continued the case for one year on the condition that the judge enter and successfully complete a driver alcohol education program. The judge did so, and the criminal charges against him eventually were dismissed. Nonetheless, in a separate disciplinary proceeding, the Massachusetts Supreme Judicial Court ruled that the judge had violated the Code of Judicial Conduct by driving under the influence of alcohol. The dismissal of the criminal charges, in the court's opinion, had no effect upon the disciplinary proceedings because the criminal law serves different purposes than the disciplinary process.²⁰² Regardless of what the criminal court ruled, the state supreme court, when later considering the disciplinary action, thought the evidence disclosed in the criminal proceeding showed that the judge did actually drive while under the influence of alcohol and thus violated the Code by bringing undeserved discredit to the judiciary.²⁰³



A plea of nolo contendere to a criminal charge, in itself, may constitute a violation of the Code. In *In re Inquiry Concerning A Judge No. 491*,²⁰⁴ the Supreme Court of Georgia upheld the Judicial Qualification Commission's finding that a judge's plea of nolo contendere to a crime involving moral turpitude had brought the judicial office into disrepute, in violation of the Code of Judicial Conduct, even though the question of guilt was not formally adjudicated by such a plea.²⁰⁵ Notwithstanding that there existed a statute prohibiting the use of the plea as an admission of guilt, the Georgia Supreme Court held that because the Commission was not inquiring into the guilt of the judge as charged, but merely whether the judge's plea of no contest had brought the judicial office into disrepute, the Commission could not be restricted by legislative act from considering "any conduct of a judicial officer which reflects on the question they are called upon to decide."²⁰⁶

C. The Relationship Between the Criminal Process and the Disciplinary Process: The Doctrine of Double Jeopardy

As a general rule, the doctrine of double jeopardy does not operate as a bar to judicial disciplinary proceedings regarding conduct that has previously been the subject of adjudication in a criminal trial.²⁰⁷

Double jeopardy ordinarily applies only when one criminal action is followed by another, and because judicial disciplinary proceedings are considered noncriminal in nature, double jeopardy does not attach between them and a prior criminal adjudication.²⁰⁸ While sharing some similarities with the criminal process, judicial disciplinary proceedings are usually considered a distinct entity, sui generis, and therefore double jeopardy does not arise between the criminal and disciplinary processes.²⁰⁹

For purposes of the doctrine of double jeopardy, many courts consider judicial disciplinary proceedings to be noncriminal in nature because they function differently than the criminal law.²¹⁰ While some courts have arrived at this conclusion because judicial proceedings do not result in the imposition of imprisonment or fines,²¹¹ other courts have determined that such proceedings are noncriminal because their purpose is not to punish, but to maintain the honor and integrity of the judiciary and to restore and reaffirm the public confidence in the administration of justice.²¹² In short, it has been said that the essence of the sanction imposed

in disciplinary cases is not "punishment." Instead, sanctions are based on grounds bearing a rational relationship to the interests of the state in the fitness of its judicial personnel.²¹³ The judicial disciplinary process further differs from the criminal process in that it does not entail severe penalties, such as imprisonment, which require special procedural protection before they may be imposed. As a result, in those instances for which the particular conduct transgresses both the criminal law and the canons of ethics, prosecution may be pursued under either or both systems without invoking constitutional double jeopardy concerns.²¹⁴

Judicial disciplinary proceedings have also been described by some courts as regulatory in nature.²¹⁵ In states that have adopted the two-tier model of judicial conduct organizations,²¹⁶ proceedings in the first tier, where no adjudication occurs, have been said to be merely investigatory or quasi-administrative. As such, they serve a function similar to that of a grand jury to which double jeopardy does not attach.²¹⁷ (This, however, does not explain why double jeopardy concerns would not come into play at the second tier of the proceedings.)

In accordance with these general principles, the Alabama Court of the Judiciary in *In re Burns*,²¹⁸ ruled that it was not precluded from censuring a judge for proposing an act of prostitution to a woman, in violation of canon 2, even though this conduct had already been the basis of the judge's criminal conviction of disorderly conduct. Prior adjudication of the conduct in a criminal proceeding did not bar further inquiry of the same conduct in a disciplinary proceeding by the Court of the Judiciary.

The unavailability of the defense of double jeopardy to a judicial disciplinary commission proceeding is further illustrated by *In re Bates*.²¹⁹ In *Bates*, the Judicial Qualification Commission of Texas was allowed to proceed with its hearing prior to the completion of criminal prosecution on the same subject matter because the Commission's hearing was deemed a "separate and distinct matter and completely independent of any other proceedings which were pending."²²⁰ A similar result was reached by the California Supreme Court in *McComb v. Commission on Judicial Qualifications*.²²¹ There, the court likened a judicial proceeding to that of a state bar disciplinary proceeding for which criminal procedural safeguards do not apply due to the noncriminal nature of the proceeding.²²²

Employing similar reasoning, courts have also held that legislative action to remove or impeach a judge on grounds of



misconduct in office does not invoke double jeopardy protection against subsequent disciplinary proceedings based on the same misconduct. In *Ransford v. Graham*,²²³ the Supreme Court of Michigan held that the refusal of the state House of Representatives to vote for the removal of a judge did not bar, on double jeopardy grounds, subsequent proceedings by the state supreme court regarding the judge's fitness to serve. The court held that neither the impeachment nor the disciplinary actions were criminal in nature, and therefore, the doctrine of double jeopardy did not apply.²²⁴ Likewise, the New Jersey Supreme Court has taken the position, in *In re Mattera*,²²⁵ that impeachment only determines a judge's right to hold office and is not intended to bar or delay other actions for a public wrong. The court held that a single act of misconduct may offend the public interest in a number of areas, and justice requires an appropriate remedy for each harm created.²²⁶

The New Jersey Supreme Court could find no reason why a prescription in the Constitution of a remedy for one purpose should be found to imply an intention to deny government the power to protect the public in its other interests or to immunize the offender from further consequences of his or her acts.²²⁷ This view was reiterated by the Texas Supreme Court in *In re Carrillo*,²²⁸ where it was held that a judge's removal from office by a state senate impeachment proceeding did not preclude judicial action based on the same conduct leading to the removal. The court ruled that both proceedings could be pursued concurrently.²²⁹

As a result of courts' refusal to apply the doctrine of double jeopardy to judicial disciplinary proceedings, a judge's prior criminal conviction may be admitted as evidence of judicial misconduct in a subsequent disciplinary inquiry.²³⁰ In *Louisiana State Bar Ass'n. v. Funderburk*²³¹ a judge's guilty plea to criminal charges was entered as competent evidence of misconduct at a subsequent commission investigation, and it created a rebuttable presumption of guilt which the respondent judge had the burden to overcome. Similarly, in *In re Biggins*,²³² the Arizona Supreme Court held that a judge's conviction of driving under the influence of alcohol afforded an "entirely independent and self-sufficient basis for sustaining the commission's censure recommendation."²³³ In the opinion of the Arizona court, the judge's conviction was of sufficient consequence to be, in and of itself, conduct prejudicial to the administration of justice, bringing the judicial office into disrepute."²³⁴ This view was also expressed in *In re Callanan*,²³⁵ in which the Michigan Supreme Court held that a judge's felony conviction for violations of the RICO act was sufficient

evidence of conduct which brought the judicial office into disrepute.²³⁶

The general refusal by the courts to apply double jeopardy protection to judicial disciplinary proceedings has not gone entirely without criticism. In *In re Friess*,²³⁷ a New York trial court said that the contention of the State Commission on Judicial Conduct that its proceedings were merely disciplinary and, therefore, not subject to criminal trial standards, was "either naive [sic] or hypocritical [sic]."²³⁸ Whatever label might be assigned to the proceedings, the court said, was merely an exercise in semantics. The court, instead, held that common law safeguards attach "to any significant hearing where the State attempts to deprive an individual of property without due process."²³⁹ Viewing the current livelihood and good reputation of its judges as valuable property rights, the New York court held that a judge is entitled to all the constitutional rights of a fair trial, including, but not limited to, protection from double jeopardy or star chamber proceedings.²⁴⁰

Despite the concerns of the trial court in *Friess*, its grant of the petitioner's request for a severance of charges in accordance with constitutional safeguards was modified by the New York appellate division in *In re Application of Friess*,²⁴¹ to the extent of denying the request for severance and removing constitutional double jeopardy protection from disciplinary proceedings. In doing so, the appellate court distinguished disciplinary proceedings from criminal ones by their differing purposes and nature, as well as the disparity of penalties involved, noting particularly that in disciplinary proceedings the fundamental right of liberty is not at stake.²⁴² The appellate court in *Friess* also pointed out that the hearer of fact in a disciplinary proceeding is routinely a seasoned former jurist as opposed to a panel of lay jurors. In the opinion of the court, these former jurists are fully capable of distinguishing between proof submitted on one charge and proof submitted on another or previous charge.²⁴³

(*San Diego Law Review*. Jeffrey M. Shaman)

Footnotes

¹⁴⁸. See *infra* text accompanying notes 154-56.

¹⁴⁹. See *Ex Parte Virginia*, 100 U.S. 339, 348 (1880); *Braateli v. United States*, 147 F.2d 888 (8th Cir. 1945); *McFarland v. State*, 172 Neb. 251, 109 N.W.2d 397 (1961).



150. Braatelian, 147 F.2d at 895; McFarland, 172 Neb. at 260, 109 N.W.2d at 404.
151. See supra text accompanying notes 55-111.
152. See Braatelian, 147 F.2d at 895; McFarland, 172 Neb. at 260, 109 N.W.2d at 404.
153. See Braatelian v. United States, 147 F.2d 888 (8th Cir. 1945); McFarland v. State, 172 Neb. 251, 109 N.W.2d 397 (1961).
154. See Hamilton v. Williams, 26 Ala. 527 (1855); Commonwealth v. Tartar, 239 S.W.2d 265 (Ky. 1951); In re McNair, 324 Pa. 48, 187 A. 498 (1936).
155. See M. COMISKY & P. PATrERSON, supra note 19, at 239.
156. See cases cited supra note 149.
157. 100 U.S. 339 (1880).
158. See id. at 348.
159. See supra text accompanying notes 86-93.
160. See Ex Parte Virginia, 100 U.S. at 348.
161. 239 S.W.2d 265 (Ky. 1951).
162. 147 F.2d 888 (8th Cir. 1945).
163. Id. at 895.
164. Id.
165. Id.
166. 172 Neb. 251, 109 N.W.2d 397 (1961).
167. Id. at 260, 109 N.W.2d at 403.
168. Id.
169. See United States v. Issacs, 493 F.2d 1124 (7th Cir.), cert. denied, 417 U.S. 976 (1974).
170. U.S. CoNsT. art. III, § 1.
171. Issacs, 493 F.2d at 1140-44.
172. E.g., Ky. Sup. CT. R. 4.020; MICH. CONST. art. VI, § 30(2); OR. CONST. art. VII, § 8(1); WASH. REV. CODE ANN. § 9.92.120 (1988).
173. E.g., WYo. CONST. art. V, § 6(c).
174. E.g., PA. CONST. art. VI, § 7.
175. In re Callanan, 419 Mich. 376, 355 N.W.2d 69 (1984).

176. Sullivan v. State ex reL Attorney Gen., 472 So. 2d 970 (Ala. 1985).
177. In re Coruzzi, 95 N.J. 557, 472 A.2d 546 (1984).
178. In re Kivett, 309 N.C. 635, 309 S.E.2d 442 (1983).
179. In re Tindall, 60 Cal. 2d 469, 386 P.2d 473, 34 Cal. Rptr. 849 (1963), cert. denied, 377 U.S. 966 (1964).
180. State ex rel. Carroll v. Simmons, 61 Wash. 2d 146, 377 P.2d 421 (1962), cert. denied, 374 U.S. 808 (1963).
181. For a summary of modern cases involving the criminal conduct of judges, see AMERICAN JUDICATURE Soc'Y, JUDICIAL DISCIPLINE AND DISABILITY DIGEST 355-58 (1981).
182. See State ex rel. Carroll v. Simmons, 61 Wash. 2d 146, 377 P.2d 421 (1962), cert. denied, 374 U.S. 808 (1963); In re Callanan, 419 Mich. 376, 355 N.W.2d 69 (1984).
183. WASH. REV. CODE ANN. § 9.92.120 (1988).
184. E.g., CAL. CONsT. art. VI, § 18.
185. See Gruenburg v. Kavanagh, 413 F. Supp. 1132 (E.D. Mich. 1976).
186. E.g., MICH. CT. R. 9.220.
187. E.g., WASH. REV. CODE ANN. § 9.92.120 (1988).
188. MODEL CODE OF JUDICIAL CONDucT Canon 1 (1972).
189. Id. Canon 2.
190. See In re Wireman, 270 Ind. 344, 367 N.E.2d 1368 (1977), cert. denied, 436 U.S. 904 (1978); In re Callanan, 419 Mich. 376, 355 N.W.2d 69 (1984); In re Duncan, 541 S.W.2d 564 (Mo. 1976); In re Hunt, 308 N.C. 328, 302 S.E.2d 235 (1983); W. Va. Judicial Inquiry Comm'n v. Dostert, 165 W. Va. 233, 271 S.E.2d 427 (1980).
191. In re Van Susteren, 118 Wis. 2d 806, 348 N.W.2d 579 (1984).
192. In re Maxwell, 287 S.C. 594, 340 S.E.2d 541 (1986).
193. Id.
194. In re Killam, 388 Mass. 619, 447 N.E.2d 1233 (1983).
195. Starnes v. Judicial Retirement & Removal Comm'n, 680 S.W.2d 922 (Ky. 1984); In re Whitaker, 463 So. 2d 1291 (La. 1985).
196. In re Robert Dean Hawkins, (Unreported Order, Judicial Retirement & Removal Comm'n, Ky. Nov. 28, 1984).
197. In re Callanan, 419 Mich. 376, 355 N.W.2d 69 (1984); In re Raineri, 102 Wis. 2d 418, 306 N.W.2d 699 (1981).

198. *In re Roth*, 293 Or. 179, 645 P.2d 1064 (1982).
199. *Roberts v. Comm'n on Jud. Performance*, 33 Cal. 3d 739, 661 P.2d 1064, 190 Cal. Rptr. 910 (1983).
200. *In re Inquiry Concerning A Judge No. 491*, 249 Ga. 30, 287 S.E.2d 2 (1982).
201. 388 Mass. 619, 447 N.E.2d 1233 (1983).
202. *Id.* at 622, 447 N.E.2d at 1235-36.
203. *Id.* at 623, 447 N.E.2d at 1236.
204. 249 Ga. 30, 287 S.E.2d 2 (1982).
205. *Id.* at 31, 287 S.E.2d at 4.
206. *Id.*
207. See *In re Burns (Unreported Judgment COJ-Z*, Ala. Ct. Jud., July 18, 1977); *In re Biggins*, 153 Ariz. 439, 737 P.2d 1077 (1987); *McComb v. Comm'n on Jud. Performance*, 19 Cal. 3d 1, 564 P.2d 1, 138 Cal. Rptr. 459 (1977); *In re Inquiry Concerning A Judge No. 491*, 249 Ga. 30, 287 S.E.2d 2 (1982); *Louisiana State Bar Ass'n v. Funderburk*, 284 So. 2d 564 (La. 1973); *In re Szymanski*, 400 Mich. 469, 255 N.W.2d 601 (1977); *In re Bates*, 555 S.W.2d 420 (Tex. 1977).
208. See cases cited supra note 207.
209. See *In re Haddad*, 128 Ariz. 490, 492, 627 P.2d 221, 223 (1981).
210. See *id.*; *In re Kelley*, 238 So. 2d 565, 569 (Fla. 1970), cert. denied, 401 U.S. 962 (1971); *In re Benoit*, 487 A.2d 1158 (Me. 1985); *In re Storie*, 574 S.E.2d 369 (Mo. 1978); *In re Wright*, 313 N.C. 495, 329 S.E.2d 668 (1985).
211. See Kelley, 238 So. 2d at 569.
212. See Benoit, 487 A.2d at 1174; *In re Diener*, 268 Md. 659, 304 A.2d 587 (1973), cert. denied, 415 U.S. 989 (1974); *Sharpe v. State*, 448 P.2d 301 (Okla. 1968), cert. denied, 394 U.S. 904 (1969); *In re Coruzzi*, 95 N.J. 557, 472 A.2d 546, appeal dismissed, 469 U.S. 802 (1984); *Wright*, 313 N.C. at 499, 329 S.E.2d at 671.
213. Kelley, 238 So. 2d at 569.
214. See *People v. La Carrubba*, 46 N.Y.2d 658, 661, 416 N.Y.S.2d 203, 206, 389 N.E.2d 799, 802 (1979); see also cases cited supra note 207.
215. E.g., *In re Haddad*, 128 Ariz. 490, 492, 627 P.2d 221, 223 (1981); Coruzzi, 95 N.J. at 570, 472 A.2d at 557.
216. See I. TESITOR & D. SINKS, JUDICIAL CONDUCT ORGANIZATIONS 3 (2d ed. 1980).
217. See *In re Samford*, 352 So. 2d 1126, 1128-29 (Ala. 1977); *In re Ross*, 428 A.2d 858, 860 (Me. 1981); *In re Judge Anonymous*, 590 P.2d 1181, 1188 (Okla. 1978).



^{218.} *In re Burns (Unreported Judgment COJ-7*, Ala. Ct. Jud., July 18, 1977); *In re Biggins*, 153 Ariz. 439, 737 P.2d 1077 (1987); *McComb v. Comm’n on Jud. Performance*, 19 Cal. 3d 1, 564 P.2d 1, 138 Cal. Rptr. 459 (1977); *In re Inquiry Concerning A Judge No. 491*, 249 Ga. 30, 287 S.E.2d 2 (1982); *Louisiana State Bar Ass’n v. Funderburk*, 284 So. 2d 564 (La. 1973); *In re Szymanski*, 400 Mich. 469, 255 N.W.2d 601 (1977); *In re Bates*, 555 S.W.2d 420 (Tex. 1977).

^{219.} 555 S.W.2d 420 (Tex. 1977).

^{220.} *Id.* at 428.

^{221.} 19 Cal. 3d Spec. Trib. Supp. 1, 564 P.2d 1, 138 Cal. Rptr. 459 (1977).

^{222.} *Id.* at 9, 564 P.2d at 5, 138 Cal. Rptr. at 463.

^{223.} 374 Mich. 104, 131 N.W.2d 201 (1964).

^{224.} *Id.* at 105, 131 N.W.2d at 203.

^{225.} 34 N.J. 259, 168 A.2d 38 (1961).

^{226.} *Id.* at 266, 168 A.2d at 42.

^{227.} *Id.*

^{228.} 542 S.W.2d 105 (Tex. 1976).

^{229.} *Id.* at 108; see also *In re Mussman*, 112 N.H. 99, 289 A.2d 403 (1972).

^{230.} See *In re Biggins*, 153 Ariz. 439, 737 P.2d 1077 (1987); *In re Inquiry Concerning A Judge No. 491*, 249 Ga. 30, 287 S.E.2d 2 (1982); *Louisiana State Bar Ass’n v. Funderburk*, 284 So. 2d 564 (La. 1973); *In re Callanan*, 419 Mich. 376, 355 N.W.2d 69 (1984).

^{231.} 284 So. 2d 564 (La. 1973).

^{232.} 153 Ariz. 439, 737 P.2d 1077 (1987).

^{233.} *Id.* at 443-44, 737 P.2d at 1081-82.

^{234.} *Id.*

^{235.} 419 Mich. 376, 355 N.W.2d 69 (1984).

^{236.} *Id.* at 387-89, 355 N.W. 2d at 74.

^{237.} N.Y.L.J., June 2, 1982 at 1, col. 5 (N.Y. Sup. Ct. May 27), modified, 91 A.D.2d 554, 457 N.Y.S.2d 33 (1982).

^{238.} Friess, N.Y.L.J., June 2, 1982 at 7, col. 2.

^{239.} *Id.*

^{240.} *Id.*

^{241.} 91 A.D.2d 554, 457 N.Y.S.2d 33 (1982).



²⁴². *Id.* at 556, 457 N.Y.S.2d at 35.

²⁴³. *Id.*

