

## 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.

#### **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.

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<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).

<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).