

In Chambers

The Official Publication of the Texas Center for the Judiciary

Volume 29, Number 2
Summer 2002

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- Reflections While in the Zone

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In Chambers

Volume 29, Number 2
Summer 2002

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2002–2003 Leadership Nominations

On June 6, the 2001–02 Nominations Committee, chaired by Judge Lamar McCorkle, slated the following judges for nomination for the 2002–03 Judicial Section Board of Directors and the Texas Center for the Judiciary Board of Directors:

Judicial Section Board of Directors

Chair: Hon. Stephen B. Ables
Presiding Judge, 6th Administrative Region
Judge, 216th District Court, Kerrville

Chair Elect: Hon. Molly M. Francis
Justice, 5th Court of Appeals, Dallas

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Place 3: Hon. Lora J. Livingston
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Place 1: Hon. Cathy Cochran
Judge, Court of Criminal Appeals, Austin

Place 3: Hon. Wilford Flowers
Judge, 147th District Court, Austin

Place 8: Hon. Joe Bridges
Judge, County Criminal Court at Law #4, Denton

Place 9: Hon. John T. Forbis
Senior District Judge, Childress

If you are interested in serving on any committees during the 2002–03 term, please contact Hon. Stephen B. Ables at 830-792-2290 or Mari Kay Bickett at mkbickett@yourhonor.com. ♦

<u>Judicial Section Committees</u>	<u>Texas Center Committees</u>
Legislative (Appellate, Trial)	Bylaws
Bylaws	Curriculum
Ethics	Long Range Planning
Juvenile Justice	Nominating
Nominating	PEER (Bench Book)
Resolutions	
Site Selection	

Resolutions & Bylaw Amendments

The Judicial Section Resolutions Committee will meet on August 24, 2002, in conjunction with the Judicial Section Annual Conference.

As stipulated in the Judicial Section bylaws, resolutions must be submitted to the chair of the Resolutions Committee no later than 20 days prior to the date set for the annual meeting. Therefore, the deadline for submitting resolutions is August 4, 2002. Submit resolutions to: Judge Jean Spradling

Hughes, Resolutions Committee Chair, County Criminal Court at Law #15, 1201 Franklin, 7th Floor, Houston, TX 77002 or fax 713-755-4874.

Proposed bylaw amendments should be submitted in writing to Hon. Mark D. Atkinson, Judicial Section Chair/Conference Leader, County Criminal Court at Law #13, 1201 Franklin, 7th Floor, Houston, TX 77002 or fax 713-755-8931. ♦

Honors & Achievements for Texas Judges

On April 11, 2002, Child Advocates hosted the Judge Scott Moore Awards Dinner. More than 275 guests joined Judge Scott Moore along with the Child Advocates' staff and Board of Directors at the Fort Worth Club to pay tribute to Child Advocates volunteers as well as several other outstanding community child advocates.

The prestigious Judge Scott Moore Award was presented to **JUDGE JEAN H. BOYD** of the 323rd Judicial District. This Tarrant County Court hears the majority of Child Protective Services cases. The award, which has been presented by Child Advocates for the last eight years, honors an individual or organization that has demonstrated exemplary efforts in advocating on behalf of abused and neglected children

in Tarrant County. This award recognizes the unselfish way the honoree helped those who often have the smallest voice and are at the greatest risk. Retired Judge Scott Moore and Child Advocates Executive Director Nancy Fisher made the presentation of this one-of-a-kind award.

The Honorable Jean H. Boyd can easily be referred to as the "Child's Judge." Since 1981, she has dedicated her professional career to speaking out for Tarrant County's children, especially those in crisis. Judge Boyd served as the Associate Judge and Referee for this court from February 1987 until her election in January 1995. She has also served as an assistant district attorney for Tarrant County, representing Child Protective Services, and, prior to that, served as an assistant city attorney for Fort Worth. She has been a licensed attorney since 1979.

Judge Boyd's involvement with Child Advocates began in 1983 as one of the founding members of the steering committee. She was honored by the state affiliation in 1999 by being named the Texas CASA Judge of the Year. One of her favorite times is when she is swearing in a new class of Child Advocates volunteers. Her kind and encouraging words serve as a way of reassuring the new advocates that they have indeed accomplished a milestone



In April 2002, Judge Jean H. Boyd received Child Advocates' 8th annual Judge Scott Moore Award.

by completing the 30 hours of training and are embarking on a very important and life-saving task. Judge Boyd is one of Child Advocates' best community cheerleaders!

The NAACP recognized **SENIOR DISTRICT JUDGE L. CLIFFORD DAVIS** with its Ming Award. The award is given in honor of civil rights attorney William Robert Ming and is presented annually to an individual who exemplified the spirit of financial and personal sacrifice that Ming displayed in his legal work for the NAACP.

Judge Davis represented the NAACP in a 1960s federal lawsuit that forced the desegregation of Fort Worth public schools. Judge Davis served as judge of the Criminal District Court #2 from 1983–1988 and was inducted into the National Bar Association's Hall of Fame in 1997. ♦

Sunrise Breakfast

2002 Judicial Section Annual Conference

Experience an inspiring opening to the day with San Antonio's Oak Hills Church of Christ Minister Max Lucado. With his warm touch, memorable stories, and insightful words, Max has stirred the hearts of millions around the world.

Tuesday, August 27
6:45 a.m. to 8:15 a.m.
\$25 per person

Opinion About Opinion Writing

By Chief Justice (Retired) Jack Pope
The Supreme Court of Texas, Austin

Many years ago, a new associate justice on the Court of Civil Appeals asked me for advice on opinion writing. I was flattered and pleased to give him my opinion, for whatever it was worth. Below are some of my remarks to him, including things that I had learned from my own writing mistakes. I believe that judges on the bench today will also find these writing tips useful.

First, I like an opinion that disposes of six legal points in three pages. This is commendable. I have long thought that the hardest kind of an opinion to write is the short one. Yet, I believe that the short one is the one that is needed.

The next thing I look for is an opinion's opening paragraph. It seems to me that the opening sentence of every opinion should tell the reader the field of law about which the judge is writing. A classic example is the judge's (Brandeis, I believe) opening sentence in *Erie vs. Thompkins*.

The writer should also, at once, inform the reader whether the case was tried by the court or the jury. This is often buried deep in the opinion, and I do not believe a case can be understood until this fact is stated. Whether one or the other situation exists, different and controlling presumptions are at play. I also like to state in the opening paragraph what action the court is taking.

I am going to state a few rules of thumb which I try to follow, and all of

which I have violated. The first is that an appellate judge is not only a lawyer, but also is a writer. If it is important to have law books for the law, it is also important to have English and grammar books for the writing. I recommend that you begin to acquire books that will improve your writing.

I recommend specifically, such books as: *The Art of Plain Talk* by Rudolf Flesch and *The Elements of Style* by William Strunk, re-edited by E.B. White. Both of these books are short and state the substance of the writing principles that I have tried to copy.

Some of the simple rules stated by those and other writers are:

- Use the familiar word to the far-fetched;
- Use the concrete word instead of the abstract;
- Choose the single word to the circumlocution, like I just did;
- Take the short word instead of the long one;
- Prefer the Saxon word to the Romance;
- Verbs act. They kick. Use them, but use adverbs and adjectives sparingly;
- Write in the active, rather than the passive, voice;
- Avoid verbal nouns, gerunds, participles;
- Use short sentences. If you have difficulty making a clear sentence, usually by breaking it into two statements, it is clarified;

I like an opinion that disposes of six legal points in three pages.

- Do not separate the subject or antecedent with too many intervening phrases and clauses;
- Avoid legalistic terms. Personally, I strive mightily to avoid such terms as “aforesaid,” “said,” “after-mentioned,” “to the contrary notwithstanding.” Examination of sentences containing such words, usually shows that the meaning is actually clarified by striking them from the sentence;
- Personally, I do not like to depend upon mechanical devices, such as italics, to emphasize a point. Yet, I do use italics from time to time. I believe that we have a few judges who overuse them. This is a way of saying that the writer cannot otherwise make his point clear by the use of words;
- Avoid empty words such as “with a view to,” “with reference to,” “with regard to.” Use instead “to,” “about,” and similar words;
- Affirmative sentences are more easily grasped than negative ones.

These are some of the rules, and I believe all of them are found in the two books that I mentioned. I claim no originality for them.

Finally, I have found that terse, tight, and concise opinions will focus the light of professional approval upon a court in a surprisingly brief period of time. Good writing, and I wish you all long and successful careers on the bench. ♦

Welcome to Jury Duty

By Judge Jim Parsons

3rd District Court, Anderson, Houston, & Henderson Counties

The following is an opening that I give or paraphrase to the jury panel before it is qualified:

Good morning, ladies and gentlemen. My name is Jim Parsons, and I am the judge of the 3rd District Court of Anderson, Houston, and Henderson Counties.

You have been summoned as jurors. The cases set for this week include civil/criminal cases (I explain the difference to the jurors).

In a moment, we will review the qualifications for and exemptions from jury service. But before we begin, I would like to review with you the history

of jury trials.

Look around—you will see a mixture of our community. The system has been designed so a cross-section of the community serves on the jury.

If you look in the Pentateuch, the first five books of the Old Testament, you will find that the Jewish Nation would empanel juries to decide issues of property value and property ownership.

Around 1500 B.C., the Greeks began using the jury system. The Romans adopted the jury system from the Greeks and brought jury trials to England in the 4th century A.D.

By the 12th century, jury trials had

been part of the judicial system in England for more than 800 years. A tyrannical king, John I, attempted to do away with the right to trial by jury. However, in 1215 in Runnymede, England, the Magna Carta was signed guaranteeing, “Every man should be allowed a trial by his peers.”

Twenty-eight states have adopted the 12th century language from the Magna Carta, guaranteeing the right to trial by jury, and have placed it verbatim in their state constitutions.

The American colonists had the concept of jury trials ingrained in them. Yet again, a tyrannical king attempted to deny the right to jury trials to his citizens. Thomas Jefferson, in penning the complaints against the Crown, named the denial of the right to jury trials as a basis for separation from England. He stated, “For depriving us in many cases of the benefits of a trial by jury.”

The United States Constitution guarantees the right to jury trials in the 6th Amendment for criminal cases and in the 7th Amendment for civil cases.

The flames of the Texas Revolution were fanned in 1832 when Stephen F. Austin went to Mexico City and was thrown in jail. He was held without bail or trial for the “offense of zealously endeavoring to procure the acceptance of a Texas Constitution and the establishment of a state government.”

Signed at Washington on the Brazos on March 2, 1836, the Texas Declaration of Independence claimed the right to “continue to enjoy that constitutional liberty and republican

First Texas College a Success



More than 125 judges who currently serve on a Texas county court at law, district, or appellate court bench attended the first Texas College for Judicial Studies in Austin from May 19–24. The Texas College is a multi-year program curriculum designed to provide advanced judicial education opportunities. Participants enjoyed the specialized education topics and rated the faculty and seminar facilities highly. The 2003 Texas College for Judicial Studies will be held May 5–9, 2003, in Austin. ♦

Dublin Castle Draws Women Judges to Ireland

Justice Bea Ann Smith, Third Court of Appeals, joined a delegation of 45 members of the National Association of Women Judges who traveled to Dublin in May for the sixth biennial conference of the International Association of Women Judges, an organization with 4,000 members from 77 countries. Mary McAleese, the President of Ireland, opened the Conference with a warm tribute to women judges from every continent. Mary Robinson, former President of Ireland, outlined her role as the first United Nations High Commissioner on Human Rights.

The Conference addressed ways that judges may enhance international human rights by incorporating their principles into national law in areas

affected by international treaties and conventions. Judges from around the world exchanged information about problems and solutions at every level of the judiciary. The attendees were emboldened by the spirit of camaraderie and progress in furthering the social status and legal rights of women and children around the globe. The Conference adopted the theme of "Women, Work and Poverty" as its priority for the next two years. IAWJ's next conference will be held in May 2004 in Kampala, Uganda.

The usual silent auction took on the aspect of an international bazaar as



Justice Bea Ann Smith of Texas (left) and Judge Karla Moskowitz of New York (right) met with Ireland's president, Mary McAleese (center), during the International Association of Women Judges conference.

judges brought crafts, textiles, jewelry, and other treasures from their native lands. One judge from Botswana offered

NAWJ continued on page 13

government to which they had (enjoyed) in the land of their birth, the United States of America."

The Texas Declaration of Independence further complained that the Mexican government had "failed and refused to secure, on a firm basis, the right of trial by jury, that palladium of civil liberty and only safe guarantee for the life, liberty, and property of the citizen."

Our Texas Constitution guarantees the right to trial by jury, stating, "Trial by jury shall remain inviolate." This Texas constitutional guarantee has been judicially declared to be stronger than the U.S. constitutional guarantee.

My court, the 3rd Judicial District Court of Texas, is older than the State of Texas. It is a Republic of Texas Court and was created on December 22, 1836, eight months following the Texas

Declaration of Independence, the fall of the Alamo, and the victory of the Battle of San Jacinto. My court first drew breath, when President Sam Houston touched quill to paper and created four Republic of Texas Courts.

Over the past 164 years, 30 judges have served on the 3rd Court's bench. I am the 30th judge of this court and succeeded the Hon. R.W. Lawrence, who held this bench for 31 years. The first judge of this court was Three-Legged Willie Williamson, a hero of the Texas Revolution and for whom Williamson County was named. R.E. Baylor, for whom Baylor University was named, is also a former judge of this court.

For the past 120 years, my court has sat in this county. This courtroom is 85 years old. Many of your parents, their parents, and fore-parents have sat in

this very room in response to the call for jury service.

Democracy makes very few demands on its citizens. At a minimum, we are required to pay taxes and render service in time of war. I have heard it said that jury service is equal to service to your country in time of war. I have no quarrel with that statement.

In a moment, your name will be called by your elected district clerk. When you answer and later rise, raise your right hand, and take the oath of office, remember that no juries were summoned for jury duty today in Castro's Cuba. And despite the millions who reside in Moscow, no persons were summoned for jury duty today in Mother Russia.

Madam Clerk, please swear in the jury. ♦

Family Violence Training Requirements

If you are confused about your family violence training obligations, you are not alone. Although Government Code §22.110: Judicial Instruction Related to Family Violence, Sexual Assault, and Child Abuse has been in effect since 1993, many judges are still uncertain about what the rules require, where they can obtain family violence training, how to request credit for courses not offered by the Texas Center for the Judiciary, and how to claim an exemption. Here is some information to help.

Training Requirements

Government Code §22.110 states that each judge must acquire eight hours of family violence training during the judge's first full term of office. This is a one-time, not yearly, requirement.

Judges serving their second term or later or sitting by assignment have a separate requirement. The Government Code requires that each judge complete an additional three hours of family violence training during each additional term in office or four years of service. Again, a judge does not have to complete this requirement yearly, but by the end of each full term in office.

Where to Obtain Training

The Rules of Judicial Education includes a list of approved education providers who sometimes offer family violence training programs. To ensure that you receive family violence credit for a program, **you must submit the agenda prior to attending the conference** for approval by the Texas Center's Curriculum Committee.

Contact the following organizations directly for information about their upcoming programs.

1. Texas Center for the Judiciary
2. Judicial Section, State Bar of Texas
3. The Texas Association of Counties
4. National Judicial College
5. Appellate Judges' Conference of the American Bar Association
6. Nat'l Conference of Chief Justices
7. American Acad. of Judicial Education
8. Institute of Judicial Administration, New York University
9. Texas College of Probate Judges
10. National College of Probate Judges
11. An accredited law school
12. A local, state, or national bar assoc.
13. A professional organization devoted to improvement of the legal profession, such as the Texas Association of Defense Counsel and the Texas Trial Lawyers Association
14. The County Judges & Commissioners Assoc. of Texas or the V.G. Young Institute of Texas A&M University
15. TX Criminal Defense Lawyers Assoc.
16. TX District & County Attorneys Assoc.
17. Wright Lecture Series
18. National Council of Juvenile and Family Court Judges

The Texas Center for the Judiciary will offer several upcoming opportunities to obtain family violence training. At the Judicial Section Annual Conference in August, two courses will offer a total of 3.0 hours of family violence training. These courses include: *Defining Culture and Culture Competence* and *Cultural Considerations in Domestic Violence Cases*.

To attend these tracks at the Annual Conference, make sure to check off the corresponding boxes on your conference registration form. Enrollment is open, so any judge who would like to participate in these tracks will be able to.

The Texas Center will also sponsor a conference dedicated to family violence issues in spring 2003. Last year's family violence conference offered 9.5 hours of family violence credit over a 1.5-day education program.

How to Request Credit

Any judicial education program can be submitted to the Registrar at the Texas Center for CJE approval. An information packet containing the program agenda, program materials, and proof of attendance (if the request is made after activity) is necessary to determine eligibility.

Because the Government Code specifies the type of training that will meet the family violence requirement, be sure to submit a request for credit prior to attending a program. Sometimes, a conference will include "family violence" in its title, but the courses do not satisfy the Code.

According to the Government Code, family violence instruction must include information about:

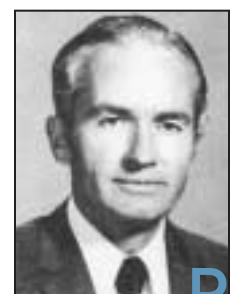
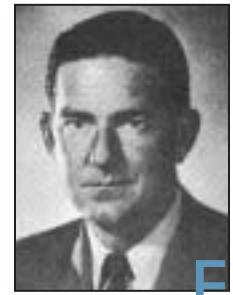
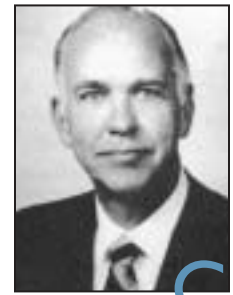
1. Statutory and case law relating to videotaping a child's testimony and relating to competency of children to testify;
2. Methods for eliminating the trauma to the child caused by the court process;

Family Violence continued on page 14

Name That Judge

TAKEN from the 1972 *Judicial Yearbook*, these photographs depict judges who currently sit by assignment. Can you match the names to the faces? Answers found at the bottom of the page.

- 1. Hon. Jack Brookshire
- 2. Hon. Carl Dally
- 3. Hon. Preston Dial
- 4. Hon. Joe Dibrell
- 5. Hon. Temple Driver
- 6. Hon. Jim Farris
- 7. Hon. Fred Harless
- 8. Hon. Delwood Johnson
- 9. Hon. Guy Jones
- 10. Hon. Weldon Kirk
- 11. Hon. Austin McCloud
- 12. Hon. John Onion
- 13. Hon. Stephen Preslar
- 14. Hon. B.B. Schraub
- 15. Hon. Shearn Smith
- 16. Hon. Wells Stewart
- 17. Hon. Henry Strauss
- 18. Hon. Mace Thurman
- 19. Hon. George Thurmond



ANSWER KEY		
15.S	10.M	5.P
14.D	9.F	4.H
13.Q	8.I	3.R
12.A	7.C	2.L
11.G	6.J	1.N
18.E	19.O	16.B
17.K		

Testing a Judge's Mentality

How do past experiences influence a judge's ability to rule fairly?

By Judge A.D. Azios

Senior District Judge, Houston

Many philosophers, psychiatrists, psychologists, judges, and men of the cloth say that a person's psyche is built grain by grain with each grain representing our life's experiences, family background, religion, and surroundings. Therefore, it seems logical to conclude that each person, each judge, reflects a different approach when examining the same problem.

The article I submitted is not set in an atmosphere of a court of law. However, the circumstances described here are real and are relevant to our assigned topic, "Judge Mentality." The article describes an "ersatz" trial of an American prisoner of war in a POW camp in Alten Grabow, Germany. The man was accused of stealing bread from another POW, who was sick, suffering from a severe case of diarrhea, and could not eat his bread. The accused man was tried by the law of the POWs: If you are caught stealing food from another POW, you will wish you had never been born.

I participated in this trial as a member of the court and as an executioner.

The court scene was like the setting in *Les Miserables*: A group of about 20 ragged, dirty, frozen, starving POWs was standing in the snow-covered assembly yard, talking about food. One POW came out of our barn, dragging another POW, whom he said he had caught stealing bread from the sick POW.

The accused had the right to a fair trial,

namely, the right to be tried by his peers—in this case, fellow POWs—and the right to be tried by an unbiased judge, who would naturally have to be another POW. Several of the judges, including myself, had been victims of bread thieves when we were too ill to eat.

The accuser related how he had caught the accused stealing bread.

The accused did not testify.

The last word of the accuser had barely left his mouth when all of the judges began shouting, "He's guilty; give him the gauntlet; throw him in the s*** house (an open cesspool)."

Two facing lines of ten POWs formed. The thief was told to run the gauntlet. The hatred of the judges turned executioners was so virulent that we tripped the thief several times as he ran the gauntlet and hit him with belt buckles while he lay on the ground.

And, the coup de grace: Instead of pushing the thief in when he reached the cesspool, four POWs grabbed him and swung the thief back and forth over the open pit about four or five times, higher and higher, to the accompaniment of the mob's rhythmic chorus, "Throw him in the s*** house." Once he landed with a splash, he tried to get out, but the executioners kept kicking him back into the pit, exemplifying the judges and the executioners being the same people and how the judges' mentality was preempted by hatred and revenge.

You might ask, "What is the correlation between this POW exercise in jungle justice and the assigned topic?"

The similarity is that the test of judge mentality is the same, namely, "Will the judge be impartial, and will the judge try the case without fear or favor?"

In the POW case, would the judges' previous experience of being victims of bread thieves influence their ability to be fair and impartial? If the accused is convicted, will the judges' mentality be free of vengeance?

Now to the present: Will a judge who has been a victim or who has friends or relatives who have been victims of a crime or of a tort or fraud maintain a judicial mentality devoid of all impermissible, magnetic intrusions which would asphyxiate the judge's mentality and convert him/her from an honorable judge to a publicity-grabbing political chameleon?

Could the rage, political, social, or business status of the parties permeate the judge's mentality?

Could a victim or relative of a victim of September 11 be a fair judge of an alleged terrorist at a trial conducted at Ground Zero?

Could the uniqueness or notoriety of a case stir the judge's mentality to become the champion of one side or the other?

Could television coverage of a trial affect the judge's conduct, rulings, or

Judge Mentality continued on page 13

Judicial Campaign Speeches

How will the White decision affect the Code of Judicial Conduct?

*By Mr. Osler McCarthy, Staff Attorney for Public Information
The Supreme Court of Texas*

An eight-member ad hoc advisory group is assisting the Texas Supreme Court in evaluating changes to Canon 5(1) of the Code of Judicial Conduct following the U.S. Supreme Court's decision in *Republican Party of Minnesota v. White*.

In *White*, the U.S. Supreme Court declared the Minnesota Supreme Court's "announce clause"—restricting judicial candidates from announcing views on disputed legal and political issues—an unconstitutional infringement on free speech. Justice Antonin Scalia, writing for the 5-4 majority, found the Minnesota restriction was not narrowly tailored to further a compelling state interest.

Under Minnesota's limitation, altered to reflect the Eighth Circuit's decision in the *White* case, a judicial candidate could criticize past court decisions without violating the announce clause—but not at the same time express opposition to *stare decisis*.

Texas' comparable restriction on judicial campaigning does not contain the language in Minnesota's announce clause and has roots in a revision of the American Bar Association's model judicial conduct code that Scalia noted Minnesota chose not to adopt. The ABA fostered the revision, Scalia wrote, because of constitutional concerns over the model provision that was the basis

for Minnesota's announce clause.

"The Court is taking immediate steps to scrutinize our Code of Judicial Conduct and ensure that it complies in every respect with the First Amendment to the United States Constitution," said Justice Wallace Jefferson, the Court's contact with the advisory panel. "We

"Judicial candidates in Texas are still bound by ethical prohibitions against making pledges or promises to rule a certain way."

Chief Justice Tom Phillips

recognize that our judges and judicial candidates need guidance sooner rather than later, so we plan to have our work on the Code completed this summer."

The advisory group consists of practitioners with expertise in free-speech issues and law professors who teach constitutional law or professional responsibility. Houston media law attorney Charles Babcock, the chair of the Supreme Court Advisory Committee, will lead the group.

Other members are Georgetown University law professor Roy Schotland, who specializes in judicial politics; R. James George, who leads a national media law practice in Austin; Dean John Attanasio of Southern Methodist University's School of Law; Professor Elaine A. Carlson of South Texas College of Law; Professor David Guinn of Baylor Law School; Professor H. Douglas Laycock of the University of Texas School of Law; and Dallas trial

lawyer Leon Carter, who has represented the media in First Amendment cases.

Attanasio is writing a case study on the Minnesota decision and Schotland is evaluating it for the National Center for State Courts, to assist courts nationwide. Carlson and Jefferson also are members of the Supreme Court Advisory Committee.

"The Texas Supreme Court has acted promptly to study whether the Texas Canons need refinement in view of the U.S. Supreme Court's decision," Babcock said. "I hope our committee will be able to study this important issue and provide our advice within the next several months."

The Court scheduled a conference with the committee July 24.

After the *White* decision, Chief Justice Tom Phillips noted that the decision did not address Minnesota's prohibition against making pledges or promises, a similar provision to Texas' Canon 5(2). "Judicial candidates in Texas are still bound by ethical prohibitions against making pledges or promises to rule a certain way," Chief Justice Phillips said. "Because Texas was not one of the states the Court cited as having a restriction on judicial campaign speech like Minnesota's, our court will now consider the effect of this decision on our judicial canons and how they may need to change." ♦

Reflections While in the Zone

By Judge Bob McGregor
66th District Court, Hill County

I can remember Judge John T. Forbis (Senior Judge, 100th District Court, Childress) and other faculty telling those of us attending the 1993 *College for New Judges* that after a number of years, a sense of melancholy and, sometimes, even loneliness can often be associated with this “judging gig.” They were right. They gave all of the new judges remedies for taking care of ourselves and shared good, sound thinking for tough times.

It seems to me that given the job demands, the warning by my senior peers has merit. I have seen many of my colleagues, many of whom were outstanding jurists, fail to survive strange election cycles, difficult bar and professional relations, and poor health. Some have died.

Today in our court, I heard more than 15 revocation petitions; yesterday, I took 11 felony pleas. Day before yesterday, a five-hour CPS child removal hearing was had, which started at 4:00 p.m., after a day consisting of several divorces, two summary judgments, a child support enforcement hearing, an occupational license, a hearing on a

request for jury trial preferential setting and protective order matter. Three times this week, there was no time for lunch. You would think that I’d be skinny or at least thinner. But I have found myself so tired by the time I get home, I do not exercise properly. I see in my lifestyle many of the dangers I was warned about many years ago. Today, I declare that I’m gonna do better!

As I write this document on a Friday afternoon at 4:30 p.m., I am resolved to take better care of myself and the loved ones depending on me. I am resolved to do a better job scheduling the workload of the court. I am resolved to appreciate the dedication of all those within our profession who love the law, but are no longer around or able to practice or serve in a judicial capacity. I am resolved to get more exercise. I am resolved to...sorry, but I had to handle a search warrant matter.

This variety of activity is what the general jurisdiction judge does. It is tough when you have a multi-million dollar bifurcated civil jury trial one week and perhaps a juvenile trial the next, but

the variety makes the days pass very fast. Where have the days since the 1993 new judges’ school gone?

I would continue in these musings, but I have an ill court reporter and must help the court coordinator/secretary/switchboard operator/librarian find a replacement for Monday. I feel better now, having reduced these little thoughts to writing. (Little thoughts are all that I have left this late on a Friday afternoon!)

All in all, I am grateful for my job (pay raise or not) and know that I am privileged and honored to be able to serve. Even after all the cases I’ve heard and the years that have passed, I still say a little prayer as I walk from chambers to the bench. I say a silent prayer for the litigants appearing before me, for their counsel (even the fussy ones), for our staff, and for me that I’ll be wise enough to make the right and best calls (or at least as many as humanly possible and take comfort that the wise heads of the appeals court will correct any error too grievous). I am feeling better...and thank Judge Forbis for his admonishments in 1993. And, maybe if I can give application to his teachings, I’ll be around to tell some younger judges, someday, to take care of themselves!

By the way, where’re those peanut butter-filled Oreos that the clerk left around here? Why must that probation department personnel problem be dealt with this late on a Friday? Adult or juvenile? Where did I leave my coffee cup? The auditor’s phone is busy. Why can’t it wait?

Where’s my Tums? ♦

in|the library

THESE publications are now available from the Texas Center library. If you would like to check out these or other materials, please contact Morgan Morrison, Publications Coordinator, at 512-463-1530 or morganm@yourhonor.com.

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Texas' Newest Administrators of Justice

As of July 15, 2002

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12th Court of Appeals, Tyler
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Hon. Richard Roman

327th District Court, El Paso
Succeeding Hon. Philip Martinez

Hon. Margaret E. Barnes

County Court at Law #2, Denton
New Court

Hon. Kenneth H. Keeling

278th District Court, Huntsville
Succeeding Hon. Jerry A. Sandel

Hon. Alma Rosa Trejo

County Crim. Ct. at Law #1, El Paso
New Court

Hon. Suzanne Brooks

County Ct. at Law #2, Georgetown
Succeeding Hon. Robert Morse

Hon. David Kelton

44th District Court, Dallas
Succeeding Hon. Margaret Keliher

Hon. Mary Ann Turner

County Court at Law #4, Conroe
New Court

Hon. Jeffrey Vincent Coen

254th District Court, Dallas
Succeeding Hon. Dee Miller

Hon. Evelyn Keyes

1st Court of Appeals, Houston
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Hon. Kenneth Price Wise

152nd District Court, Houston
Succeeding Hon. Harvey Brown

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129th District Court, Houston
Succeeding Hon. Patrick Mizell

Hon. Josh R. Morriss, III

6th Court of Appeals, Texarkana
Succeeding Hon. William Cornelius

Hon. Lisa Fox

County Criminal Court #10, Dallas
Succeeding Hon. David M. Finn

Hon. Ben Nolen

County Court at Law, San Angelo
Succeeding Hon. David B. Read

NAWJ continued from page 7

copies of her two novels; another from Massachusetts auctioned her shimmering water-color paintings. The closing banquet was a parade of traditional dresses from Nigeria to Taiwan to Korea. Dublin has never seen a more elegant celebration.

The National Association of Women Judges, which now boasts more than 55 Texas members, will hold its annual conference in Minneapolis in October 2002 when Justice Smith will be sworn in as NAWJ President. The Texas chapter of NAWJ will meet for a reception and dinner in San Antonio on Monday, August 26, 2002, during the Judicial Section Annual Conference. Dr. Amy Freeman Lee will speak after dinner at Biga on the Banks. Register when you sign up for the annual conference, whether or not you are a member, to learn more about NAWJ and its educational programs. ♦

Judge Mentality continued from page 10

treatment of the witnesses, all of which could affect the outcome of the case?

Could a judge, who suffered beyond description from starvation as a POW, be fair in a case in which the defendant was accused of keeping her young son locked up for several years in a tiny closet, where he was found almost starved to death under horrible, indescribable conditions? I was presented with such a test. It did not take me long to answer my own question: Obviously, I could not be fair to the defendant. I recused myself.

So what should be our paradigm to pass the test of proper judge's mentality? Simple: Honor our oath of office to rule according to the law and the evidence and to uphold the law of the United States and of the State of Texas, so help me God. ♦

To contribute an article to Judge Mentality, contact Morgan Morrison, Publications Coordinator, by telephone: 512-463-1530 or e-mail: morganm@yourhonor.com.

For Those Who Served Our State Courts

As of July 15, 2002

Honorable J.E. Blackburn
Senior District Judge
84th District Court, Houston

Honorable Carl Walker, Jr.
Senior District Judge
185th District Court, Houston

Honorable Marion M. Lewis
Senior District Judge
175th District Court, Victoria

Honorable Robert Webb, III
Senior District Judge
312th District Court, Houston

Honorable Robert Morse
Judge
County Court at Law #2, Georgetown

Honorable Bill M. White
Senior Judge
Court of Criminal Appeals, Austin

Honorable Sam G. Reams
Former District Judge
79th District Court, San Diego

Honorable Kellis Sampson
Former Judge
County Court at Law, Sherman

For recognition in In Memoriam, please forward the names of recently deceased judges to Morgan Morrison, Publications Coordinator (telephone: 512-463-1530 or e-mail: morganm@yourhonor.com).

Family Violence continued from page 8

3. Case law, statutory law, and procedural rules relating to family violence, sexual assault, & child abuse;
4. Methods for providing protection for victims of family violence, sexual assault, or child abuse;
5. Available community and state resources for counseling and other aid to victims and to offenders;
6. Gender bias in the judicial process;
7. Dynamics and effects of being a victim of family violence, sexual assault, or child abuse.

If family violence credits are obtained from a program other than one sponsored by the Texas Center for the Judiciary, those family violence hours must be reported directly to the Texas Center. Judges may claim credit either by submitting a Judge's Certificate of Credit form (available on the Texas Center's website, www.yourhonor.com) or by signing an official sign-in sheet at a pre-approved activity.

How to Claim Exemption

If you do not hear any family violence, sexual assault, or child abuses cases, you

may request an exemption from the training requirement. You will need to complete an Affidavit for Family Violence Exemption and return it to the Texas Center for the Judiciary. This form is available online at the Texas Center's website, www.yourhonor.com.

If you have additional questions about family violence training requirements or any other CJE issue, please contact the Texas Center's Registrar or Program Attorney at 512-463-1530. ♦

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Judicial Conference Calendar

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2003

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September 14–17, 2003
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