

Public's Respect for Rule of Law Impaired?

To the Editor:

I read the Court's multiple opinions in *Grievance Administrator v Fieger*, #127547. The facts are clear enough. Fieger likened a judge to Hitler. Fieger said that three judges declared war on him so he declared war on them. Fieger said these judges are jackasses. Fieger said they should be sodomized.

The Court's majority wrote that these statements violated the Michigan Rules of Professional Conduct because they are "undignified," "discourteous," and "disrespectful" toward a judge. The majority also said these statements undermine public confidence in the integrity of the judicial branch and legal process, and impair public respect for the rule of law. The majority says these comments have no constitutional protection.

The majority then likens Justice Weaver to Hobbes. It says that her opinion is based on "personal resentment," falsely impugns the majority's integrity, and is driven by her "personal agenda." They imply that Weaver's opinion is not based on the rule of law at all. Weaver says, in turn, that the majority opinion is grounded on "bias and prejudice." The dissenters chime in.

As an attorney, I must now divine the general rules of the case. I see five rules:

1. Compare a judge to Hitler and it gets you sanctioned. Compare a judge to Hobbes and it gets you published in Westlaw. Saying a judge is "Hobbsian" is to say that he or she subscribes to a very authoritarian version of the social contract. Apparently accusing a judge of being authoritarian involves an "in-

terchange of ideas for bringing about political and social change," but saying a judge's real name is Hitler is a "resort to epithets or personal abuse." I wonder how it would turn out if a judge was likened to Jeffery Fieger—ideas for social change or personal abuse?

2. Call a judge a jackass because of his opinion and it gets you sanctioned. Call a judge's opinion rooted in personal resentment and full of falsehoods and you get to claim a victory for "equal justice under law." Alleging a judge is a jackass meets the test for being "undignified," "discourteous," and "disrespectful." Saying the judge is driven by per-

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sonal resentment is neither "disrespectful" nor "personal abuse." I am led to believe that there is a bright-line test at work here. So where does calling a judge a quisling fall?

3. It does not undermine the public's confidence in the integrity of the legal system to say that a judge's opinion is grounded in her "personal agenda." It does undermine "public confidence," however, to say that a judge should be sodomized for his opinion. I guess this means that public confidence in the legal system is not affected by a legal opinion based on a judge's personal agenda, but it is affected by nasty comments on the radio binding no one. This seems backward.

4. The public's respect for the rule of law is maintained by stating a judge's written opinion is biased and prejudiced. The rule of law, however, is harmed in the public's eyes by saying a judge is a jackass. I suppose this means by analogy that the *Dred Scott Decision* (60 US (19 How.) 393 (1857)) declaring that all blacks—slaves as well as free—were not and could never become citizens of the United States does not undermine the public's respect for law. No sir. But to call Chief Justice Taney a jackass, now there is the one true offense against the rule of law and integrity of the courts.

5. It does not appear that it is necessary to actually poll the public about their perceptions or even solicit their input regarding the integrity of the judiciary or the rule of law. All that is necessary is to simply assert that the public's confidence would be maintained or harmed because the judiciary, the grievance administrator, or the State Bar says so. Thus, the public's perception regarding the integrity of the legal system is not a function of actual evidence, but rather perception itself—what judges and the Bar want it to be. This case seems to stand for the fifth proposition that the integrity of the legal system is advanced the most where actual evidence is the least present. I'll have to remember this rule in my next appeal.

Finally, the Court likens lawyers to "priests at the altar of justice." I suppose that means that judges are the High Priests of Justice. We attorneys must simply believe, pay our annual State Bar tithes, and not speak ill of any judicial high priests, whether high or low, in the majority or the minority, conservative or liberal. Something is very wrong with a mandatory bar, if this is the result.

Kerry L. Morgan
Wyandotte

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