

DISTRICT COURT



SEVENTH JUDICIAL DISTRICT, STATE OF OKLAHOMA  
OKLAHOMA COUNTY COURTHOUSE  
OKLAHOMA CITY, OKLAHOMA 73102

BILL GRAVES  
DISTRICT JUDGE

TELEPHONE:  
(405) 713-1456

April 8, A.D. 2008

**TO: Members of the Bench and Bar Committee of  
The Oklahoma Bar Association**

**RE: Proposed Changes to the Judicial Code of Conduct**

As a District Judge, I am very concerned by the proposed changes of the Bench and Bar Committee (BBC) of the Oklahoma Bar Association in regard to the rules governing the conduct of judges. These proposals would give even more protection than the BBC has already previously given as to "sexual orientation." These policies are not based on laws enacted by Congress or the State Legislature, but on proposals of the liberal, pro-homosexual American Bar Association (ABA).

Moreover, the BBC proposes to add to the protected groups, new categories of "gender," and "ethnicity," among others. More disturbingly, the BBC proposes in new Rule 3.6 that Judges be prohibited from holding membership in organizations that discriminate "based on "race, sex, *gender*, religion, national origin, *ethnicity*, or *sexual orientation*."

Under current canon 3(B)(4)(5), judges are prohibited from being biased or prejudiced as to "race, sex, religion, national origin, disability, age, *sexual orientation* or socioeconomic status." "Sexual orientation" obviously refers not only to heterosexuals, but also to homosexuals, lesbians and bisexuals. Certainly, the three latter groups should be treated with courtesy, fairness and justice like anyone else. However, by this proposal the BBC is promoting the homosexual agenda which is to have homosexuality treated as normal and natural as heterosexuality. These are cultural, moral and political issues that should be reserved to the Legislative branch.

In regard to "gender," one wonders why the word "sex" is not sufficient since that word includes both men and women. The ABA and the BBC do not say what they mean by "gender." Judge Robert Bork, in *Slouching Towards Gomorrah*, may have the answer. He notes that the Platform of the 1995 Beijing World Conference on Women (dominated by radical feminists and lesbians), incessantly insisted on the use of the word "gender" in regard to women's rights. To these groups, the word "gender" includes, Bork states, not just men and women, but also lesbians, homosexuals and bisexuals.



“Sexual orientation” would include pedophiles and polygamists. Does the BBC desire to protect such activity? Homosexuals practice anal sodomy, defined as “the detestable and abominable crime against nature” at 21 O.S. §886, which no doubt has contributed greatly to the AIDS plague. Does the BBC desire to promote this practice?

Use of “sexual orientation” as a protected category also forbids judges from excluding award of children in child custody and adoption cases because a person is homosexual. Studies have shown that this is detrimental to children. Others object on religious and non-religious grounds. At any rate, these issues should be decided by the Legislature – not the BBC.

By including the term “ethnicity,” would a judge be barred from questioning whether a person with no social security card is an illegal alien? If not, would it be “invidious discrimination” to report this to ICE for deportation of such person? Rule 3.6 would also prohibit a judge from honoring his or her religious beliefs against homosexuality since there are numerous Biblical references condemning homosexuality. Even many non-Christians and atheists object to the homosexual agenda.

The liberties guaranteed by the Constitution’s First Amendment do not, according to the ABA and the BBC, include judges. While proposed Rule 3.6 apparently does not prohibit a judge from being a member of a church that objects to homosexuality, it would prohibit association with numerous other organizations which do not subscribe to and discriminate as to the homosexual agenda. These include the Boy Scouts, traditional family groups, the Knights of Columbus, the American Legion, Disabled American Veterans, Veterans of Foreign Wars, the Masons, AWANAs and Alcoholics Anonymous.

Such a policy curbing freedom of religion, speech and association as to judges is fraught with constitutional violations. One can only wonder why the ABA and the BBC are promoting the agenda of homosexuals and lesbians at the expense of the constitutional freedoms of judges and the People they represent. In 2002, the U.S. Supreme Court in *Republican Party of Minnesota v. White*, in fact struck down a regulation prohibiting freedom of expression by judges.

There are laws enacted by Congress and the Oklahoma Legislature forbidding discrimination as to a person’s race, religion, sex, national origin, age or disability. There are none as to “gender” or “sexual orientation,” which said classifications should receive legal recognition only after having survived the crucible of public debate in the legislative processes just as “race, religion, etc.,” had to do. That approval should only come from, as Justice Frankfurter once said, “a civically-militant electorate,” and not by way of an unelected committee that is not answerable to the voters.

A “civically-militant electorate” passed a constitutional amendment in 2004 in Oklahoma banning same-sex marriage by a vote of a margin of 1,075,216 (75.58%) to 347,303 (24.42%). The same provision also provided that nothing in the Constitution or law could be “construed to require that marital status or the legal incidents thereof be

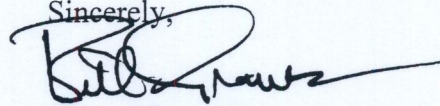


conferred upon unmarried couples or groups.” Obviously, the People of Oklahoma do not subscribe to the homosexual agenda. Did Oklahomans practice invidious discrimination? No, they were voting for heterosexuality and a continuation of a culture and a morality that views marriage as between a man and a woman only. No committee that is unanswerable to the electorate should be allowed to force the homosexual agenda down the throats of judges or the People who elect them.

Since homosexual groups cannot succeed in persuading Legislatures to provide such protection, they are making an end run around the constitutional lawmaking processes to force such recognition through the BBC – a body empowered by no vote of the People. Judicial regulations should not step outside of or exceed duly enacted law.

In all respect, it is this judge’s belief that the time of the Bench and Bar Committee would be better spent in taking out the words “sexual orientation” that are in the existing canon than in adding wording that is inconsistent with the beliefs of the people of the State of Oklahoma. In addition, the BBC should withdraw proposed Rules 2.3 and 3.6 from consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Bill Graves", with a long horizontal flourish extending to the right.

BILL GRAVES,  
District Judge