



The Due Process Advocate

*"No Person shall be . . . deprived of life, liberty, or property without the due process of law"
- Fifth Amendment of the United States Constitution*

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MORE AND MORE JUDGES ARE BECOMING "BENCH-BULLIES"

TO IMPLEMENT ARBITRARY RULE

The American Bar Association ("ABA") has promulgated a Model Code of Judicial Conduct that evolves around four "Canons." Each Canon sets forth a general law, fundamental rule, established principle, and/or a basic criterion that one can use to help evaluate the performance of a judge. For the most part, the ABA's Judicial Canons are reflected by the various individual State governments with respect to the expected behavior of judges at all levels of court systems across the United States.

These Canons are the following:

CANON 1

A judge shall uphold and promote the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.

CANON 2

A judge shall perform the duties of judicial office impartially, competently, and diligently.

CANON 3

A judge shall conduct the judge's personal and extrajudicial activities to minimize the risk of conflict with the obligations of judicial office.

CANON 4

A judge or candidate for judicial office shall not engage in political or campaign activity that is inconsistent with the independence, integrity, or impartiality of the judiciary.

In the discussion of the codes of judicial conduct in Vol. 6, No. 1 of The Due Process Advocate, a common question was presented that was most often asked by readers (referring to their personal experiences in various court proceedings). That question was:

"How can a judge get away with making a ruling like that?"

The personal experiences and resulting decisions that caused so many readers to ask this common question included wrongful foreclosures, wrongful evictions, wrongful employment terminations, wrongful restraining orders, wrongful money judgments,

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wrongful default judgments, wrongful convictions, and even wrongful incarcerations where any reasonable person would readily conclude that the presiding judge's decision was not based on the facts and/or applicable law. Instead, the decisions appeared to be founded on adherence to a specific political or private agenda.

So why are there so many obviously-wrong decisions being made?

The answer is disappointing, but simple: Judges are becoming, more than ever before, extraordinary "bench-bullies" who operate much the same way as other bullies in society; except they have much more power and there is little recourse available to "right the wrong" when they choose to take advantage of the privilege and power that have bestowed upon them. As you can readily imagine, a bench-bully has absolutely no business being part of any court system. This is an area, for sure, that should be subject to a standard of "zero tolerance."

Legal Definition of bullying: acts or written or spoken words intended to intimidate or harass a person or to cause physical harm to a person or his or her property. NOTE: The statutory language used to describe what constitutes bullying differs from state to state.

-Merriam-Webster / Law Dictionary

It should be noted that The Due Process Advocate has attended many court proceedings at all levels of the court system. In that process, it was a true delight to witness a judge with professional courtesy, respect, eloquence, thoughtful inquiry, tolerance, and total control of the courtroom. Unfortunately, this was the exception and not the rule. The all-too-often rule of judicial conduct in many courts was a line of inquiry or questioning by a given judge that, in and of itself, indicated an obvious pre-disposition toward the outcome of a case; while generally ignoring facts and arguments that didn't support that pre-disposition (especially if the facts and arguments were being made by a self-represented defendant arguing against a plaintiff with an attorney). In many cases, it became painfully obvious how a judge was going to rule before hearing both parties. This tactic seems to support the notion that decisions are often based on prevailing political agendas and not on the merits of a given case. Political bias may also be the reason for the recent proliferation of decisions made using "arbitrary rule" and not the "rule of law." It also seems that part of the preference for arbitrary rule is designed to make it clear to pro-se litigants that they should not come to court without an attorney.

The recent case involving Essex County, Massachusetts Judge Feeley is a perfect example of arbitrary rule. Judge Feeley sentenced a known heroin dealer with a criminal record to probation, rather than jail time (saying that the drug dealer was just trying to earn a living and support his family). He used his power to apply "arbitrary rule" in order to dispense with the "rule of law" in order to support, apparently, a political agenda. How else can this judge's actions be construed in the midst of the worst opioid epidemic the nation has ever seen?

In similar fashion, other civil and criminal defendants are summarily defeated in court at the hands of these bench-bullies who are too busy, can't be bothered to listen to the facts, can't tolerate non-attorneys, feel they are over-worked, and/or otherwise are being inconvenienced. These bench-bullies believe way too many litigants are showing up in court believing they have a right to due process (i.e. the right to be heard in a fair legal proceeding); especially if they come into court without an attorney!

As a result, many good folks have lost total confidence in the court system to deliver justice and, tragically, look upon many judges with utter disdain.

Because judges are, from a practical standpoint, immune from any real accountability, there is a growing chaos in the courts that parallels, perhaps, the chaos that exists in the halls of Congress where the partisan battles between the Democrats and Republicans now take precedence over serving the people.

In similar fashion, due process for the common person is not the primary objective of the bench-bully. The bench-bully's objective appears to be allegiance to a given political or private agenda from which the bench-bully can derive the most personal benefit.

Sad but true.

If you have a story about a bench-bully you'd like to share, please contact The Due Process Advocate at 497 Hooksett Rd., #395, Manchester, NH 03104 or thedueprocessadvocate@gmail.com.