



UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
Joel W. Solomon United States Courthouse
900 Georgia Avenue
Chattanooga, Tennessee 37402

FEDERAL JUDGES PUT ASIDE PERSONAL PREFERENCES

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Federal judges are drawn from the ranks of experienced lawyers with diverse personal and professional backgrounds. They bring to the bench their professional training and experience, personal history, and lived experiences. As a result of these experiences, they form certain beliefs and sympathies and develop certain preferences and biases. But, as judges, they must put aside these beliefs, sympathies, preferences, and biases if they conflict with their obligation to apply the law fairly and impartially.

JUDGES JOIN THE BENCH WITH HUMAN FRAILTIES.

Judges do not arrive on the bench as blank slates. Their experience is derived from years practicing as plaintiffs' lawyers, civil defense lawyers, prosecutors, criminal-defense lawyers, lawyers at big firms, sole practitioners, law professors, or in other fields of legal practice. In their former roles, they acquired affinities for their fields of practice and also formed beliefs, preferences, and perhaps even biases. As human beings, it is impossible for us to completely abandon all personal beliefs.

For the most part, judges are aware not only that they have sympathies for certain positions, but also that the public will assume they retain those sympathies. Judges know the public will be looking for displays of these sympathies in their rulings. However, their authority as judges depends on separating their personal inclinations from their legal judgments. Judges therefore strive to not let any of those sympathies influence their decisions on the bench and not show favoritism to past affiliations and beliefs. They also strive to demonstrate that their rulings are not influenced by their prior roles or beliefs.

IMPORTANCE OF THE OATH OF OFFICE.

One of the primary tools helping judges resist former beliefs and sympathies and demonstrate to the public that they are doing so is their oath of office. The oath all federal judges must take is set out by federal law in 28 U.S.C. § 453. For district court judges, it states:

I do solemnly swear (or affirm) that I will administer justice without respect to persons, and do equal right to the poor and to the rich, and that I will faithfully and impartially discharge and perform all the duties

incumbent upon me as a United States District Judge under the Constitution and laws of the United States. So help me God.

This oath is a public affirmation of an ideal to which all judges aspire. Regardless of past professional endeavors or of beliefs, sympathies, or biases, a judge is bound to administer justice without regard to the status or beliefs of the people before them, to ensure equal rights for all, and to impartially discharge their judicial duties.

UNCONSCIOUS BIASES.

While judges acknowledge their conscious sympathies and biases, the reality is that judges also have unconscious biases. These are biases of which the judges themselves are unaware. Unconscious biases are implicit assumptions or associations that all people, regardless of training or good will, naturally develop.

The judiciary is structured to minimize the effect of these unconscious biases. Judges are bound to strictly follow stare decisis—the prior decisions of higher courts—regardless of their personal preferences. Judges must also follow the written laws passed by legislatures, again, regardless of their personal preferences. Most federal courts are multi-judge courts, so judicial collegiality also inhibits judges from giving free reign to their individual sympathies and biases. Moreover, the adversarial process, where two or more competing parties vigorously present their positions, also serves to minimize individual biases. Lastly, the jury system acts as a democratic restraint against judges carrying out personal preferences.

CONCLUSION.

Acknowledging that judges are mere humans need not diminish confidence in the courts. In fact, understanding and acknowledging the human element reinforces the integrity of the judicial process. It reminds us that judges strive—imperfectly but earnestly—to separate personal preferences, sympathies, and bias from legal duty. Their oath is not a promise of perfection; it is a commitment to vigilance, humility, and the rule of law.

In the end, the strength of the federal judiciary lies not in pretending that judges are free of biases, but in judges' continuous efforts to understand, confront, and rise above them, as well as, to the best of their ability, fairly and impartially administer the law.

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