MINNESOTA BOARD ON JUDICIAL STANDARDS

In the Matter of Judge
Matthew M. Quinn

PUBLIC REPRIMAND

File No. 23-32

TO: Judge Matthew M. Quinn.

The Board on Judicial Standards ("Board") received a complaint concerning the conduct of Judge Matthew M. Quinn. The Board investigated the complaint. On June 5, 2024, based upon the Board's investigation and proceedings, the Board issued a notice of proposed public reprimand and conditions to Judge Quinn in accordance with Rules 6(f)(5)(iii) and 6(f)(7), Rules of Board on Judicial Standards.

Judge Quinn waived his right to demand a formal complaint and public hearing. Consequently, this public reprimand is final. Based upon the Board's investigation and proceedings, the Board now makes the following:

FINDINGS AND CONCLUSIONS

Disciplinary History

1. Judge Matthew M. Quinn was appointed to the Seventh Judicial District bench in 2017. In 2021, the Board publicly reprimanded Judge Quinn for abusing the prestige of judicial office and for publicly endorsing and publicly opposing candidates for public office.

Misconduct Warranting Public Discipline

2. Judge Quinn knew that Minnesota Statutes section 201.014, subdivision 2a was amended by the Minnesota Legislature in 2023, that it became effective on July 1, 2023, and that it applied to elections conducted on or after that date. The amended statute provides:

> Subd. 2a. **Felony conviction; restoration of civil right to vote.**
>
> An individual who is ineligible to vote because of a felony conviction has the civil right to vote restored during any period when the individual is not incarcerated for the offense . . . .

Minn. Stat. § 201.014, subd. 2a (2023).

3. Judge Quinn was also aware of an "Order Amending Condition of Probation That Prohibits People With Felony Convictions From Registering to Vote and Voting" issued by then-Seventh Judicial District Chief Judge Sarah E. Hennesy on March 20, 2023. Judge Hennesy described the 2023 amendments to Minnesota Statutes section 201.014, and ordered:

1. Effective July 1, 2023, the probation, supervised release, and conditional release condition which prohibits those convicted and sentenced of a felony offense, including stays of imposition, from registering to vote and voting is **AMENDED**, as follows: "You may register to vote and vote provided you are not incarcerated in a state, federal or local jail."
2. All probation departments in the Seventh Judicial District, including Community Corrections and the Minnesota Department of Corrections, shall inform all defendants who are under their supervision on a felony sentence that effective July 1, 2023, they may register to vote and vote if they are not incarcerated.

4. After receiving the chief judge's order, Judge Quinn began conducting his own research and analysis of the state legislature's 2023 amendments to Minnesota Statutes section 201.014, subdivision 2a. Judge Quinn stated to the Board that, in doing so, he did not consult with or work with anyone else, except his law clerk.

5. Without authority, based on his own research and analysis, Judge Quinn began issuing probation sentencing orders on October 12, 2023, which ruled *sua sponte* that Minnesota Statutes section 201.014, subdivision 2a is unconstitutional and restricted the voting rights of defendants. These orders were designed as forms that could be issued in multiple cases, with blanks where the court file number, and names of defendant and counsel could be written in by hand. The orders were captioned as "Order Holding Minn. Stat. §201.024, Subd. 2a (2023) Unconstitutional" and contained the following findings:

ORDER

1. Minnesota Statutes section 201.014, subdivision 2a (2023) is unconstitutional.
2. Defendant, having been convicted of a felony offense, is not eligible to vote until the civil right to vote has been otherwise restored.
3. Defendant is prohibited by the Constitution of the State of Minnesota from registering to vote, or voting, or attempting to register to vote, or attempting to vote. To do so is a criminal act which can be investigated, charged, prosecuted, and tried in the normal course. If conviction enters on such an allegation, stayed or executed prison time may be imposed. These rights are suspended until Defendant serves the sentence and completes supervised release, or completes probation, and Defendant's civil rights are restored.

The form orders also incorporate a detailed memorandum of law where Judge Quinn explains his reasons and legal arguments. The orders and memorandum of law reflect Judge Quinn's deliberate intention not to follow section 201.014, subdivision 2a by *sua sponte* declaring it unconstitutional.

6. Judge Quinn's deliberate intention not to follow section 201.014, subdivision 2a is also reflected in Judge Quinn's October 13, 2023 email to Deb Anderson, a District Supervisor for the Minnesota Department of Corrections:

> Ms. Anderson:
>
> I have begun, once again, ordering felons to abstain from voting or registering to vote as a condition of their probation. This portion of my sentencing order is in direct contradiction to the district-wide order of Chief Judge Hennesy, dated March 20, 2023.
>
> This year, the legislature passed, and the governor signed, a new law which purports to restore the right to vote to convicted felons, provided they are not incarcerated when they vote.
>
> That statute, Minn. Stat. 201.014, subd. 2a is unconstitutional. My reasoning for this holding is more extensively described in a supplemental order that I will be signing in each felony conviction and issuing along with the standard sentencing order. The Minnesota Constitution provides mechanisms for the legislature to restore felons to their civil rights, but the mechanism they chose runs directly contrary to Article 7, Section 1 of the Minnesota Constitution. That constitution is what I took an oath to protect and defend – I took no oath to defend state statutes.
>
> Simply put, the right to vote and its possible future restoration is defined by the prior version of the statute – your civil rights, including the right to vote, are restored upon discharge from probation.
>
> An example which has already been filed in a felony case which was sentenced on October 13, 2023, is attached.
>
> I felt you should know because this is an unusual occurrence and runs contrary to the statute, though not the constitution, as both are currently worded.

7. Judge Quinn's deliberate decision not to apply section 201.014, subdivision 2a and to *sua sponte* rule it unconstitutional resulted in Judge Quinn issuing at least five sentencing orders that restricted defendants' voting rights and deprived them of the restored voting rights available to them under the statute. Court records show Judge Quinn issued form sentencing orders in the following cases:

   State v. Trevino, Court File No. 48-CR-21-1450 (October 12, 2023)
   State v. Weyaus, Court File No. 48-CR-22-1823 (October 12, 2023)
   State v. Belland, Court File No. 48-CR-23-698 (October 18, 2023)
   State v. Stewart, Court File No. 48-CR-22-861 (October 18, 2023)
   State v. Sablan-alger, Court File No. 48-CR-22-1225 (October 19, 2023)

8. Defendants Weyaus and Trevino appealed Judge Quinn's sentencing orders by seeking a writ of prohibition from the Minnesota Court of Appeals on October 19, 2023. Defendant

Sablan-alger appealed by petition for writ of prohibition to the Court of Appeals on October 26, 2023.

9. On October 30, 2023, Judge Quinn issued a "Notice of Voting Prohibition Order" in five cases where a sentencing hearing was scheduled. That Order stated:

> **Now,** after a thorough review of the legislation, rules, and case law, the court on its own initiative hereby makes the following:
>
> **ORDER**
>
> 1. The parties are advised that the court, on its own initiative, has previously found Laws of Minnesota 2023, chapters 12 and 62, amended Minnesota Statutes 2022, section 201.014, (in particular, Minnesota Statutes section 201.014, subdivision 2a (2023), et seq., the "Felon Voting Law," so called) is unconstitutional.
> 2. As a collateral consequence, similarly situated defendants have been ordered not to vote, register to vote, or attempt to do either one, until they are released from probation by court order and their civil rights have been fully restored. Minn. Const. art. VII, §1, via the phrase "unless restored to civil rights[.]"
> 3. There appears to be no known legal reasoning, other finding, or order of a court to persuade or require the court to waiver in its finding.
> 4. By way of the Presentence Investigation, the court anticipates that conviction of a felony offense will enter at the upcoming Sentencing Hearing. Accordingly, it is anticipated that Defendant will be ordered not to vote, register to vote, or attempt to do either, as part of the court's sentence.
> 5. In conjunction with Defendant's sentencing, the hearing on issues that may be raised or may be raised or may be apparent concerning this notice shall be scheduled for thirty (30) minutes.

10. The Court of Appeals granted writs of prohibition against enforcement of Judge Quinn's probation sentencing orders in the *Weyaus, Trevino, and Sablan-alger* cases.[1] None of the writs of prohibition were appealed.

11. In granting writs of prohibition against enforcement of Judge Quinn's probation sentencing orders in *Weyaus* and *Trevino,* the Minnesota Court of Appeals agreed with Petitioners' arguments that "the district court exceeded its lawful authority by independently raising and deciding an issue involving the constitutionality of a statute without the issue being raised by a party and without giving the parties notice and an opportunity to be heard." *In re Weyaus and Trevino,* A23-1570 at *3-4. The Court of Appeals further agreed that Judge Quinn's *sua sponte* orders violated the principle of "party presentation," where parties raise the issues to be decided; and where judges play the "role of neutral arbiter"

[1] *In re Weyaus*, A23-1565, and *In re Trevino*, A23-1570 (Minn. Ct. App. Nov. 2, 2023); *In re Sablan-alger*, A23-1619 (Minn. Ct. App. Nov. 3, 2023).

and "should not" look "for wrongs to right," but "wait for cases to come to [them]" *Id.* at *4 (quoting *Greenlaw v. United States,* 554 U.S. 237, 244 (2008)). The Court of Appeals also concluded that Judge Quinn's "*sua sponte* supplemental sentencing order declaring a legislative act unconstitutional is outside the sentencing authority granted to district courts by the legislature." *Id.*

12. In *Sablan-alger*, the Court of Appeals followed *Weyaus* and *Trevino*, concluding that Judge Quinn "exceeded his rule-based and statutory sentencing authority by *sua sponte* issuing supplemental sentencing orders declaring [section 201.014, subdivision 2a (2023)] to be unconstitutional without the issue being raised by a party and without giving the parties notice and an opportunity to be heard." *In re Sablan-alger*, A23-1619 at *2.

CONCLUSIONS

1. The foregoing conduct of Judge Quinn violated the following Rules of the Code of Judicial Conduct (Code):

Rule 1.1	Compliance with the Law
Rule 1.2	Promoting Confidence in the Judiciary
Rule 2.1	Giving Precedence to the Duties of Judicial Office
Rule 2.2	Impartiality and Fairness
Rule 2.4	External Influences on Judicial Conduct
Rule 2.6(A)	Right to Be Heard
Rule 2.10	Statements on Pending and Impending Cases

2. The foregoing conduct also violated Rule 4(a)(5) and (6), Rules of the Board on Judicial Standards, providing that grounds for discipline include "[c]onduct prejudicial to the administration of justice that brings the judicial office into disrepute," and "[c]onduct that constitutes a violation of the Code of Judicial Conduct.

PUBLIC REPRIMAND

Based upon the foregoing Findings and Conclusions, the Board hereby **PUBLICLY REPRIMANDS** Judge Quinn for the foregoing misconduct.

The memorandum below is made a part hereof.

MINNESOTA BOARD ON JUDICIAL STANDARDS

Dated: June 27, 2024

By: [signature]
Sara P. Boeshans
Executive Secretary
1270 Northland Dr., Suite 160
Mendota Heights, MN 55120
(651) 296-3999

MEMORANDUM

Compliance With the Law & Impartiality and Fairness

Rule 1.1 states that "A judge shall comply with the law, including the Code of Judicial Conduct." Minnesota judges are also required to "uphold and apply the law" and "perform all duties of judicial office fairly and impartially" Rule 2.2.

Comment 2 to Rule 2.2 makes clear:

> *Although each judge comes to the bench with a unique background and personal philosophy, a judge must interpret and apply the law without regard to whether the judge approves or disapproves the law in question.*

Judge Quinn did not comply with, uphold, or apply Minnesota Statutes section 201.014, subdivision 2a (2023). Instead, acting on his own initiative, he deliberately and intentionally decided to make the amended voting eligibility statute inapplicable to defendants on probation in felony cases by *sua sponte* declaring it unconstitutional. Judge Quinn's probation sentencing orders unfairly limited defendants' voting rights, ruling that the Minnesota Constitution prohibited them from voting while on probation, and threatening prosecution or imposition of stayed prison time if they attempted to exercise their voting rights restored under the amended law.

There is substantial evidence in the record in Judge Quinn's own words showing that he personally disagrees with and disapproves of the Minnesota Legislature's 2023 amendments to section 201.014, subdivision 2a. Judge Quinn wrote a detailed memorandum of law explaining his reasons why he believes section 201.014, subdivision 2a is unconstitutional. In his October 13, 2023 email to Deb Anderson, Judge Quinn expressed his belief that the Minnesota legislature chose the wrong mechanism to restore voting rights in felony cases. And in his January 22, 2024 response letter to the Board, Judge Quinn explained: "With 18 years in practice and 6 years on the bench, my legal training and experience led me to conclude a serious violation of the State's Constitution was at hand." Letter from Hon. Matthew M. Quinn to Bd. on Jud. Standards, (Jan. 22, 2024).

In his presentation to the Board on May 10, 2024, Judge Quinn stated that he became interested in the 2023 amendments to section 201.014, subdivision 2a, investigated them, and reached his conclusions that the amendments were unconstitutional on his own initiative. Judge Quinn denied talking to or working with anyone other than his law clerk in conducting his research and analysis.

The record also shows that, based on his personal investigation and research, Judge Quinn created the form "Order Holding Minn. Stat. §201.014, Subd. 2a (2023) Unconstitutional" and supporting Memorandum of Law with the plan of issuing the order on an ongoing basis in felony sentencing cases. The order and supporting memorandum of law were intended and designed as forms that could be issued in multiple cases, with blanks where the date, court file number, and names of defendant and counsel can be written in by hand. Judge Quinn's *sua sponte* sentencing orders holding section 201.014, subdivision 2a unconstitutional and imposing voting restrictions on defendants were the product of the Judge Quinn's own research and personal conclusions:

> In reviewing this court's opinion that Minn. Stat. Section 201.014, subd. 2a (2023) was unconstitutional, I believe you can see I was applying the law as I understood it to be.
>
> As I believed the constitution supported it, I was issuing a statutorily authorized condition of probation with a detailed explanation of the underpinnings of that decision.

Letter from Hon. Matthew M. Quinn to Bd. on Jud. Standards (Jan. 22, 2024).

Judge Quinn also repeats his strongly held view that he has no duty to uphold Minnesota statutes that he believes to be unconstitutional:

> The oath of office that I took was to protect the constitutions of our country and our state...To be certain, the oath does not say that judicial protection of the constitution is limited in or to certain areas of law. Nor does is [sic] say that the limitation is more limited still in that a party must raise the issue before the presiding judge may then, and only then, contemplate the meaning of her or his oath of office, or act on it.

Letter from Hon. Matthew M. Quinn to Bd. on Jud. Standards (Jan. 22, 2024).

> District courts are required to swear an oath "to support the constitution of the United States and of this state and to discharge faithfully the duties of his office to the best of his judgment and ability." Minn. Const. art. V, §6. This court is by so attesting subservient to those constitutions and not to an act of the legislature – let alone an unconstitutional act. The act in question, H.F. No. 28, as enacted, Minn. Stat. § 201.014, subd. 2a, et seq., is void *ab initio.* (Memorandum of Law p. 14).
>
> [The Minnesota] constitution is what I took an oath to protect and defend – I took no oath to defend state statutes. (Email to Deb Anderson).
>
> My mindset at the time was caught up in a triangle that included my duty to my oath of office, the unconstitutionality of Minn. Stat. Section 201.014, subd. 2a (2023), and the need to act or be found deficient by failing to do so. Ironically, first and foremost were my concerns about my oath of office and not honoring it to the best of my ability.
>
> The proceedings were based on good faith beliefs that the court could and should take action on the oath of office to protect the constitution. In fact, beliefs that the oath, a solemn promise, likely required as much.

Letter from Hon. Matthew M. Quinn to Bd. on Jud. Standards (Jan. 22, 2024) (citing *Marbury v. Madison*, 5 U.S. 137, 177, 2 L.Ed. 60 (1803).

Despite Judge Quinn's personal belief that his oath of judicial office required him to systematically refuse to apply Minnesota's voting eligibility law passed by the state legislature and signed by the governor, the Minnesota Court of Appeals ruled that Judge Quinn exceeded his judicial authority by issuing *sua sponte* sentencing orders declaring section 201.014 subdivision 2a unconstitutional. The Court of Appeals held that "[t]he judicial branch has no inherent authority to impose terms or conditions of sentencing for a criminal act." *In re Weyaus*, A23-1565, and *In re Trevino*, A23-1570 at *4 (citing *State v. Osterloh,* 275 N.W.2d 578, 580-81 (Minn. 1978)). Instead, "[t]he legislature grants district courts the authority to sentence a defendant . . . and to determine the conditions of probation" *Id.* (citing Minn. Stat. §§ 609.10, subd. 1(a), 609.135 (2022) and *State v. Ornelas,* 675 N.W.2d 74, 80 (Minn. 2004)). The Court of Appeals concluded that "a *sua sponte* supplemental sentencing order declaring a legislative act unconstitutional is outside the sentencing authority granted to district courts by the legislature." *Id.* The Court of Appeals also ruled that Judge Quinn exceeded his lawful judicial authority "by independently raising and deciding an issue involving the constitutionality of a statute without the issue being raised by a party and without giving the parties notice and an opportunity to be heard." *Id.*

Judge Quinn's deliberate actions outside the scope of his judicial authority are more than "legal errors" that now stand corrected by the Court of Appeals – they are also serious violations of the Code of Judicial Conduct. Judge Quinn's proper role and authority in sentencing cases under Rules 1.1, 1.2 and 2.2 is to follow and "uphold and apply" statutes as enacted by the Minnesota legislature, not to overrule them on his own initiative, based on his own opinions and conclusions.

Judge Quinn created his own probation conditions directly contradicting state statute. His sentencing orders not only defy the limits of his own judicial power, but also limit defendants' voting rights, and effectively impose harsher sentences than authorized under Minnesota law. Evidence in the record, including Judge Quinn's own statements to the Board, shows that Judge Quinn planned to impose these sentencing orders on an ongoing basis, establishing an intended pattern of thwarting application and enforcement of the law.

Judge Quinn states that he "took no oath to defend state statutes." The Board does not view Judge Quinn's conduct as an expression of Judge Quinn's judicial independence, but of his disregard for the authority of the state legislature. There is no contradiction between a judge's obligation to promote public confidence in the independence of the judiciary under Rule 1.2 and a judge's duty to comply with the law and the Code of Judicial Conduct under Rule 1.1:

> Independence of the judiciary is not inconsistent with accountability for judicial conduct. Lawless judicial conduct—the administration, in disregard of the law, of a personal brand of justice in which the judge becomes a law unto himself—is as threatening to the concept of government under law as is the loss of judicial independence. We see no conflict between judicial independence and accountability. Indeed, a lack of judicial accountability may itself be the greatest danger to judicial independence.

In re Ross, 428 A.2d 858 (Me. 1981).

The Board also disagrees strongly with Judge Quinn's claim that his oath of office does not require him to "defend" state statutes. As a Minnesota district court judge, Judge Quinn has a duty to comply with the law and "uphold and apply" the law fairly and impartially. Rule 1.1; Rule 2.2. The Code makes clear that:

> **"Law"** encompasses court rules as well as statutes, constitutional provisions, and decisional law. (Code, Terminology).

The Board has previously publicly reprimanded a district court judge who deliberately disregarded Minnesota Court of Appeals precedent in a sentencing proceeding, based on his own opinion that the cases were wrongly decided. *In re Public Reprimand of Cahill* (Minn. Bd. Jud. Standards Apr. 21, 2014). Concerned that a felony conviction could result in the defendant's deportation, Judge Cahill imposed a gross misdemeanor sentence – a punishment less severe than the felony sentence specified under Minnesota sentencing guidelines. Judge Cahill stated in a memorandum supporting the sentencing order:

> This Court is well aware of Court of Appeals cases which have held that potential immigration consequences are not to be taken into consideration for sentencing purposes . . . . This court respectfully suggests that the Court of Appeals went astray in those cases.

In re Cahill, at 1-2.

Judge Cahill explained to the Board that his guiding principle was "to always try to do the *right* thing, unless the right thing is clearly prohibited by law." (emphasis in original). The Board concluded:

> Judge Cahill's actions . . . were clearly prohibited by law . . . .In some instances, Judge Cahill could have accomplished any legitimate objectives by going through proper legal procedures. In other instances, the "right thing" to do in a particular situation has been decided by the Legislature or the appellate courts, and Judge Cahill was required to follow their directives. Rule 1.1 of the Code of Judicial Conduct requires a judge to comply with the law, and Comment 2 to Rule 2.2 requires a judge "to interpret and apply the law without regard to whether the judge approves or disapproves of the law in question." Judge Cahill went beyond what the law allowed.

In re Cahill, at 8.

Judge Quinn was certainly well aware of the state legislature's 2023 amendments to section 201.014, subdivision 2a. Judge Quinn, acting on his own initiative, deliberately chose not to follow or apply the amended statute, based on his own judgement that it is unconstitutional. Judge Quinn's claim that his oath of judicial office requires him to unilaterally strike down a state statute is unsupported, and directly conflicts with his duties under the Code. Judge Quinn refused to interpret and apply section 201.014, subdivision 2a impartially, "without regard" to his own disapproval of

the amended statute and his personal belief that the Legislature was wrong to enact it. Rule 2.2 Comment 2.

Judge Quinn failed to comply with the law and the Code of Judicial Conduct, and he failed to remain impartial by issuing the orders ruling Minnesota Statutes section 201.014, subdivision 2a unconstitutional.

Right to be Heard

Rule 2.6(A) requires that "[a] judge shall accord to every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard according to law." Comment 1 to Rule 2.6 provides:

> *The right to be heard is an essential component of a fair and impartial system of justice. Substantive rights of litigants can be protected only if procedures protecting the right to be heard are observed.*

Judge Quinn's sentencing orders ruling Minnesota Statutes section 201.014, subdivision 2a unconstitutional and restricting the voting rights of defendants on probation were issued *sua sponte* without the request of any party, without any briefing on the constitutionality of the statute, and without providing notice or opportunity to be heard to the parties or to the Attorney General of Minnesota. In granting writs of prohibition against Judge Quinn's *sua sponte* sentencing orders, the Minnesota Court of Appeals found that "the district court exceeded its lawful authority by independently raising and deciding an issue involving the constitutionality of a statute without the issue being raised by a party and without giving the parties notice and an opportunity to be heard." The Board finds that Judge Quinn's actions also violate Rule 2.6(A) (Ensuring the Right to be Heard).

Adequate notice to the parties is a critical procedural protection of the right to be heard. In his response to the Board, Judge Quinn notes that "[i]n the *Weyaus* matter, notice could have been improved." Letter from Hon. Matthew M. Quinn to Bd. on Jud. Standards (Jan. 22, 2024). Review of court records and an audio recording indicates that Judge Quinn gave the parties and their counsel no notice at all before or during Weyaus' October 12, 2023 sentencing hearing of his intention to issue his Order declaring section 201.014, subdivision 2a unconstitutional, and restricting Weyaus' voting rights on probation. The subjects of voting and voter registration were never mentioned or discussed at the *Weyaus* sentencing hearing.

Near the end of the *Trevino* sentencing hearing the same day, during his explanation of probation conditions, Judge Quinn stated:

> And then, also a note that Mr. Trevino is prohibited from voting or registering to vote or even attempting to do either one of those things until he's off probation and his civil rights have been restored.
>
> I'm issuing that order specifically here with a note that if you do register to vote or vote or even attempt to do either one of those things it could be a new felony

> violation. You could be investigated, charged, prosecuted, have prison time imposed, and even do prison time on voting violations. So, they're serious.
>
> [T]his sentencing order is in direct contradiction to a district-wide order issued by Chief Judge Hennesy dated March 20, 2023. This year the legislature in Minnesota passed, and the Governor signed, a new law which purports to restore the right to vote to convicted felons provided they are not incarcerated – so if they're not in prison or not in jail. However, that statute, Minnesota Statute 201.014 subdivision 2a is unconstitutional. My reasoning for this holding is extensively described in a supplemental order that I'll file here shortly in addition to the standard sentencing order.
>
> So, I took an oath to protect and defend the Constitution, not an oath to defend state Statutes, and that state Statute's unconstitutional. Simply, your right to vote and the possible future restoration is defined by a prior version of the state statutes. Your civil rights, including the right to vote, are restored on discharge from probation and then on a potential specific act of the Court restoring you. You have to make application at the end of probation for a restoration of civil rights, and questions about that could certainly be directed to your attorney. I've got a 15-page order that describes the unconstitutional nature of Minnesota Statute 201.014.

Transcript of Sentencing Hearing at 27-28, *State v. Trevino*, Court File No. 48-CR-21-1450, (Oct. 12, 2023).

After Judge Quinn's statement, Defense counsel asked a brief question whether the order would be attached to the file. Judge Quinn confirmed and moved on to discuss payment of fines and fees. Judge Quinn did not invite the parties to respond or to present arguments on the issue of defendant's voting rights or the Judge's supplemental sentencing order declaring section 201.014, subdivision 2a unconstitutional.

It is not clear from the record before the Board whether any notice was given to the parties or counsel in other cases where Judge Quinn issued his form sentencing order. The lack of advance notice is especially problematic in these cases because defendants and counsel had no reason to expect that Judge Quinn would rule *sua sponte* that. section 201.014, subdivision 2a is unconstitutional, since no party had raised this issue. As a result, the parties had no opportunity to prepare objections or arguments. This element of surprise is troubling, since Rule 2.6(A) gives judges responsibility to "accord" and "ensure" the right to be heard.

In five cases, Judge Quinn issued a "Notice of Voting Prohibition Order" giving notice to a defendant with a pending sentencing hearing. The order advises the parties of Judge Quinn's previous orders ruling section 201.014, subdivision 2a unconstitutional, and outlines procedures for briefing, raising and arguing any issues the parties may have, setting aside time at the sentencing hearing for this purpose. However, the order also states that "it is anticipated that Defendant will be ordered not to vote, register to vote, or attempt to do either, as part of the court's sentence" and that:

> There appears to be no known legal reasoning, other finding, or order of a court to persuade or require the court to waiver in its finding.

See Notice of Voting Prohibition Order, *State v. Nelson*, Court File No. 48-CR-22-1904 (Oct. 30, 2023).

This order removes the element of surprise, and outlines procedures for a hearing – but it also effectively renders the opportunity to be heard meaningless by clearly indicating that Judge Quinn has already decided the outcome and cannot or will not be persuaded or required to change his mind.

It is undisputed that both the defendants and the State had important legal interests at stake at the sentencing hearings. Judge Quinn's order disenfranchises defendants otherwise eligible to vote under the amended section 201.014 subdivision 2a, and threatens them with felony prosecution if they even attempt to exercise their voting rights. The State has an important legal interest in applying and enforcing Minnesota statutes, and defending the constitutionality of the legislature's amendments to section 201.014, subdivision 2a.

Judge Quinn violated Rule 2.6(A) by ruling section 201.014 subdivision 2a unconstitutional on his own initiative, without giving the parties or counsel notice and a fair opportunity to be heard. As the Court of Appeals held in *Weyaus*, Judge Quinn also "violated the principle of party presentation, which recognizes that parties raise the issues that matter to them, and courts perform "the role of neutral arbiter" and "should not" look "for wrongs to right," but "wait for cases to come to [them]." *Weyaus*, at *4 (quoting *Greenlaw v. United States,* 554 U.S. 237, 244 (2008)).

Judge Quinn did not act as a neutral arbiter over issues raised, framed and argued by the parties in cases presented to him. Instead, he undertook his own investigation of a particular statute of personal interest to him. On his own initiative, without consulting with anyone other than his law clerk, Judge Quinn formulated and executed a plan to declare the statute unconstitutional and create his own conditions of probation limiting defendants' voting rights, using a form order and memorandum of law that he could issue in multiple cases.

Through these actions, Judge Quinn violated his duties of impartiality and fairness, and failed to ensure the parties' right to be heard on their important legal interests, instead surprising them with unexpected constitutional rulings without advance notice. Judge Quinn's own statements and actions show that he intentionally departed from his judicial role and was not neutral or impartial in his determination to declare section 201.014, subdivision 2a unconstitutional.

Promoting Confidence in the Judiciary; Giving Precedence to the Duties of Judicial Office; External Influences on Judicial Conduct

Under Rule 1.2:

> A judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.

Judge Quinn's *sua sponte* sentencing orders declaring Minnesota Statutes section 201.014, subdivision 2a unconstitutional and limiting defendants' voting rights effectively nullify an act of the state legislature on Judge Quinn's own initiative, without giving the parties notice or an opportunity to be heard. Judge Quinn clearly disagrees with and disapproves of the 2023 amendments to section 202.014, subdivision 2a, and he imposed his personal opinions instead of impartially applying and upholding the law. Judge Quinn's actions do not promote public confidence in the integrity and impartiality of the judiciary. As the Minnesota Supreme Court recently observed:

> For our legal system to maintain the confidence of the public, and for the public to accept and abide by judicial decisions, the judicial branch must aspire to and exemplify both the reality and the appearance of justice in every case.

State v. Malone, 963 N.W.2d 453, 470-71 (Minn. 2021) (citing *State v. Pratt*, 813 N.W.2d 868, 878 (Minn. 2012).

At a bare minimum, Judge Quinn's actions create an appearance of impropriety. Judge Quinn does not appear to be impartial with respect to the application or the constitutional validity of section 201.014, subdivision 2a. The Code defines "impartiality" to include both "absence of bias or prejudice in favor of, or against, particular parties or classes of parties, as well as maintenance of an open mind in considering issues that may come before a judge." Code, Terminology. Judge Quinn's *sua sponte* issuance of his form orders at sentencing hearings shows actual bias against both defendants (whose voting rights under the amended section 201.014 subdivision 2a are denied) and the State (which has a legal interest in defending the constitutionality of the statute).

In addition, Judge Quinn's statements and actions give the appearance that he does not have an open mind on these issues. In comments to the Board, Judge Quinn expressed strong confidence that his analysis is correct, and that section 201.014, subdivision 2a is unconstitutional. He repeatedly stated his belief that his oath of judicial office required him to protect the State Constitution, not defend state statutes he determined to be unconstitutional. His October 30, 2023 Notice of Voting Prohibition Order states that "there appears to be no known legal reasoning, other finding, or order of a court to persuade or require the court to waiver in its finding" *See, e.g.*, Notice of Voting Prohibition Order, *State v. Nelson*, Court File No. 48-CR-22-1904 (Oct. 30, 2023). In other comments to the Board, Judge Quinn described himself and his research as "pursuing" lines of argument that the amended section 201.014 subdivision 2a is unconstitutional. He stated, "It became apparent to me that there were actually more arguments than just the one I was pursuing."

This evidence supports a reasonable inference that Judge Quinn had already pre-judged the outcomes of the sentencing hearings, and determined in advance to rule section 201.014, subdivision 2a unconstitutional and impose conditions of probation limiting defendants voting rights. *See State v. Finch*, 865 N.W.2d 696, 705 (Minn. 2015) (Record indicated that the district court prejudged a probation revocation proceeding, reasonably calling into question the judge's impartiality).

A judge may violate the "appearance of impropriety" provisions of Rule 1.2, even if there is no intent on the part of the judge to do so. *See* Arthur Garwin et al., *Annotated Model Code of Judicial Conduct* 69 (3d ed. 2016) ("Because the standard for determining the appearance of impropriety is objective, a judge's own perception of motivation for behavior is irrelevant to the analysis."). The test for the existence of an appearance of impropriety is "whether the conduct would create in reasonable minds a perception that the judge violated this Code or engaged in other conduct that reflects adversely on the judge's honesty, impartiality, temperament or fitness to serve as a judge." Rule 1.2, Comment 5. Applying this test, we conclude that Judge Quinn's conduct in issuing his *sua sponte* sentencing orders without notice or opportunity to be heard "would create in reasonable minds a perception" that Judge Quinn violated the Code, and reflect adversely on Judge Quinn's impartiality.

The Board takes no position on the merits of Judge Quinn's arguments that section 201.014, subdivision 2a is unconstitutional. What matters – and what gives rise to this public reprimand in this case – are the actions Judge Quinn took on his own initiative, outside of his judicial role, motivated by his belief that his oath of office required it. Judge Quinn violated the Code and exceeded his judicial authority through his conduct as detailed here – not because of his legal conclusions, or the content of his arguments. *Cf* Rule 4(c), Rules of Boad on Judicial Standards.

Statements on Impending Cases

Under Rule 2.10(B):

> A judge shall not, in connection with cases, controversies, or issues that are likely to come before the court, make pledges, promises, or commitments that are inconsistent with the impartial performance of adjudicative duties of judicial office.

The following evidence illustrates that Judge Quinn stated and communicated his ongoing commitment not to follow or apply the state legislature's 2023 amendments to Minnesota Statutes section 201.014, subdivision 2a in felony sentencing proceedings:

Judge Quinn created a form "Order Holding Minn. Stat. § 201.014, Subd. 2a (2023) Unconstitutional," prohibiting defendants from "registering to vote, or voting, or attempting to register to vote with blanks for handwriting names, dates and court file numbers.

> Judge Quinn stated in his October 13, 2023 email to Deb Anderson:
>
> > I have begun, once again, ordering felons to abstain from voting or register to vote as a condition of their probation . . . .This year, the legislature passed, and the Governor signed, a new law which purports to restore the right to vote to convicted felons, provided they are not incarcerated when they vote. That statute, Minn. Stat. 201.014, subd. 2a is unconstitutional. My reasoning for this holding is more extensively discussed in a supplemental order that I will be signing and issuing along with the standard sentencing order . . . . An example which has already been filed in a felony case . . . . is attached.

In his Memorandum of Law in support of the "Order Holding Minn. Stat. § 201.014, Subd. 2a (2023) Unconstitutional," Judge Quinn states:

> Accordingly, in light of the fundamental nature of the right to vote, the court concludes that it has a duty to independently evaluate the voting capacity of each felon at the time of their discharge from probation, and on subsequent occasions as needed or requested. (p. 13)
>
> District courts are required to swear an oath "to support the constitution of the United States and of this state and to discharge faithfully the duties of his office to the best of his judgment and ability." Minn. Const. art. V, §6. This court is by so attesting subservient to those constitutions and not to an act of the legislature – let alone an unconstitutional act. The act in question, H.F. No. 28, as enacted, Minn. Stat. §201.014, subd. 2a, et seq., is void *ab initio.* (p. 14).

This evidence shows Judge Quinn's commitment to continue his practice of ruling Minnesota Statutes section 201.014, subdivision 2a unconstitutional and refusing to follow or apply it in felony sentencing proceedings. The evidence also shows that Judge Quinn had pre-determined and planned how he would decide these issues in future cases, inconsistent with impartial performance of his judicial duties, in violation of Rule 2.10(B).

Conclusion

Like the conduct illustrated in Judge Quinn's 2021 Public Reprimand, Judge Quinn's misconduct in this case is serious – it not only violates foundational rules of the Minnesota Code of Judicial Conduct, but also shows that Judge Quinn misunderstands the role and duties of a Minnesota District Court Judge as established in the Code and under Minnesota law. In his response to the Board, Judge Quinn minimized the 2021 Public Reprimand by characterizing it to be "about [his] family activity and personal social media account information." Letter from Hon. Matthew M. Quinn to Bd. on Jud. Standards (Jan. 22, 2024). However, "Public confidence in the judiciary is eroded by improper conduct and conduct that creates the appearance of impropriety. This principle applies to both the professional and personal conduct of a judge." Rule 1.2, Comment 1.

The Board directs Judge Quinn to determine and address the causes of his conduct. If the conduct recurs, the Board will consider whether additional discipline is appropriate.

Judge Quinn agrees to refrain from making any public statement that tends to justify, excuse, or contradict the facts, conclusion, or determinations of the Board that relate to this Public Reprimand.