

Florida Supreme Court's fashion rule: Black robes for judges

Associated Press State Wire: Florida (FL) - October 17, 2015

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- Section: News
- Readability: >12 grade level (Lexile: 1410)

ORLANDO, Fla. (AP) — When it comes to fashion, the Florida Supreme Court wants judges to stick to basic black in the courtroom.

The high court recently issued an edict that judges in the state are to wear robes that are "solid black with no embellishment" during court proceedings.

The new rule, the high court wrote, is designed to promote the public's trust and confidence in the judicial branch.

That means Circuit Judge Lynn Tepper, who sits in Pasco County and liked to wear blue and even red robes, has to conform.

A Union County judge who reportedly wore a camo robe also has to keep that garment in the closet when he's on the bench.

"I think it's very reasonable," said Anthony Rondalino, chief judge of the circuit that includes Pinellas and Pasco counties. "People ought to have choices in their personal life as to what they want to wear, but when you're in an important position, which we are all are as judges, I think there needs to be continuity and there needs to be some sense in the public of what to expect."

Hillsborough Chief Judge Ronald Ficarotta concurred, saying it's not controversial in his courthouse.

"It's something I think judges take seriously," he said. "When you think of a judge, one of the first things you think about is that black robe. It carries a lot of weight and it's important for public perception. This is a serious business we're in."

But some judges around the state dissent.

Before adopting the new rule, the Supreme Court invited comments, and some judges wrote in their protests.

Broward Circuit Judge Merrilee Erlich suggested plain black robes have been historically associated with "older, somber-appearing men."

"I wear a simple, white lace collar on my plain black robes to add a touch of femininity to the dignity of the robe," she added, saying the high court should recognize the diversity of the bench.

St. Lucie County Circuit Judge Robert Belanger was more caustic. "Now at the age of 57, I am not trusted to dress appropriately," he wrote. "Apparently, there is no special trust and confidence in the ability of judges to dress themselves. I do not believe that the rule is necessary. The modern regulatory state favors rules and regulations. Why should judges be exempt?"

According to a report in the Florida Bar News, state Chief Justice Jorge Labarga decided to suggest the rule after hearing about judges around the state who were following the beat of their own fashion drummers. These included Union County Judge Bo Bayer and an 11th Circuit judge who switched to blue in criminal hearings to cheer things up.

Pasco's Tepper said she coincidentally purchased a black robe a couple of months before the Supreme Court issued its ruling because her courtroom was being filmed to show a model approach to trauma, and she didn't want the attention on the color of her robe.

Early on, Tepper said, the colorful robes helped project that her courtroom was different. Now, she said, that's no longer needed because there are a lot of differences, from the presence of therapy dogs and teddy bears to book shelves with books for children and parents and even available condoms.

When she started on the bench more than 30 years ago, women made up only a small percentage of judges. "I wanted to send a different message that this wasn't a white-haired old man in a black robe," she said.

Still, Tepper said, she's fine with the new rule. She thinks having a judge wear camo sends the wrong message.

"Camouflage is worn by hunters laying in wait," she said. "I'm not sure that's a message we need to be giving people."

Tepper said she is "happy to go along" with the new rule.

In spite of Florida's rule, plain black does not rule every judge's courtroom attire, even at the highest reaches of the nation's judiciary.

Justices on the U.S. Supreme Court have been known to accessorize their black robes. Justice Ruth Bader Ginsberg often wears a lace

at the throat. And the late Chief Justice William Rhenquist had four gold stripes added to each sleeve, inspired by a character from Gilbert and Sullivan, according to reports.

Retired Justice Sandra Day O'Connor liked to add a white collar to her black robe.

While most judges around the country wear black robes, appellate judges in Maryland all wear scarlet red, said Bill Raffery, an analyst with the National Center for State Courts.

Raffery said judicial attire was heavily debated after the Revolutionary War when Thomas Jefferson wanted to get rid of the entire British tradition of fancy robes and wigs for judges.

Ultimately, the founders settled on robes — not wigs — for federal judges.

The black robe, Raffery said, stems from the standard in old English courts that anyone called to court was required to wear one at minimum. People of higher station would have even fancier garb.

These days, Raffery said, most states mandate that judges wear robes.

But it wasn't always so, according to John Lupton, historian for the Illinois Supreme Court, who has done research on judicial robes.

In preparing for an upcoming exhibit, Lupton said, "I was kind of mildly surprised how recent the trend this is, at least in state courts."

Although federal judges wore robes from early on, many states didn't adopt the practice until the 1940s and 1950s, Lupton said. Florida didn't until 1949, when the state Supreme Court started wearing robes.

Until then, he said, state judges around the country primarily wore suits in what appears to have been a reaction against the pomp of the British courts.

That reaction led American founding fathers in the early years after the Revolutionary War to eschew the fancy trappings worn by judges in England, said Charles M. Yabon, a professor at the Benjamin Cardozo School of Law. But robes worked their way into courtrooms, he said, as a way of creating uniformity. "You don't want judges to stick out too much, is the notion," Yabon said.

"The black robe became kind of standard issue in the 19th century," Yabon said. "There's no styling memo for Supreme Court justices. They get to make it up as they go along."

Judicial robes, Yabon said, are part of the "theater of the courtroom," which includes such symbols as the judge's bench set higher than everyone else in the courtroom, and the requirement that spectators and participants stand when judges enter.

"These are all things that have meaning," he said.

Experts have different theories about the genesis of black robes. They are the same as graduation gowns, the academic dress of Oxford students and the garments worn by many clerics. Theories link the genesis of judicial robes to all of those traditions.

Ficarotta said his robes are basically black choir robes.

Judges in Florida have to buy their own robes, but sometimes local bar associations will present robes to new judges when they are sworn in.

Ficarotta, who has been a judge for 21 years, said he has three robes, one that he wears day-to-day, another he saves for special occasions and a third, his original, which he says is now "kind of ratty looking."

Rondalino said he has two robes, one which is more expensive and heavy and reserved for special occasions. The nicer of the two was presented to him when he first became a judge in 1990, he said.

Rondalino said there are no regulations governing what judges wear under their robes. "I hope we don't get to that point," he said.

Ficarotta said the edict from the Supreme Court hasn't had any effect in Hillsborough County. "When you put on that robe, it's an accomplishment and a feeling of pride," he said. "It's something we take seriously every day."

Information from: Orlando Sentinel, <http://www.orlandosentinel.com/>

• *Index terms:* FullStory; FL--Exchange-Judges Robes; General news; Courts; National courts; Judiciary; Government and politics; Local governments; State governments; National governments

• *Locations:* Florida, United States, North America

• *Dateline:* ORLANDO, Fla.

