

Rule 20-05

(10) A judge shall not, with respect to 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 the adjudicative duties of the office.

B(9)(10) COMMENTARY

Sections 3B(9) and (10) restrictions on judicial speech are essential to the maintenance of the integrity, impartiality, and independence of the judiciary. A pending proceeding is one that has begun but not yet reached final disposition. An impending proceeding is one that is anticipated but not yet begun. The requirement that judges abstain from public comment regarding a pending or impending proceeding continues during any appellate process and until final disposition. Sections 3B(9) and (10) do not prohibit a judge from commenting on proceedings in which the judge is a litigant in a personal capacity, but in cases such as a writ of mandamus where the judge is a litigant in an official capacity, the judge must not comment publicly. The conduct of lawyers relating to trial publicity is governed by South Dakota Rule of Professional Conduct 3.6.

IT FURTHER ORDERED that this rule shall become effective immediately.

DATED at Pierre, South Dakota, this 26th day of August, 2020.

BY THE COURT:

David Gilbertson

David Gilbertson, Chief Justice

ATTEST

[Signature]
Clerk of the Supreme Court
(SEAL)

SUPREME COURT
STATE OF SOUTH DAKOTA
FILED

AUG 26 2020

Shirley A. Jameson-Fergel
Clerk

STATE OF SOUTH DAKOTA
In the Supreme Court

I, Shirley A. Jameson-Fergel, Clerk of the Supreme Court of South Dakota, hereby certify that the within instrument is a true and correct copy of the original thereof as the same appears on record in my office. In witness whereof, I have hereunto set my hand and affixed the seal of said court at Pierre, S.D. this

26th day of Aug, 2020

[Signature]
Clerk of Supreme Court

Deputy