



Ontario Judicial Council condones breaking of the law by judges in Ontario

By Tom Thompson, Justice Reporter

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Should the laws of Canada be obeyed by our judges in the same manner as the rest of Canadians?

If a recent decision by the Ontario Judicial Council (OJC) in regards to the tampering of court documents by Justice Marvin Zuker of the Ontario Court of Justice at 47 Sheppard Ave. E. in Toronto, is to be used as an indicator, it would seem that the answer is no and that the judges of Ontario have special privileges to break the law in this province.



Justice Marvin Zuker was given a simple slap on the wrist by the OJC for illegally tampering with court transcripts

Justice Marvin Zuker was recently caught tampering with court transcripts which is a very serious criminal matter in the eyes of most Canadians, yet received only a slap on the wrist by his fellow judges at the Ontario Judicial Council.

Instead of being made accountable under the law as most Canadians would expect, he was ordered by the Ontario Judicial Council to provide a simple apology letter to the citizen his actions had directly caused harm to.

Unfortunately, the Ontario Judicial Council failed to take into consideration the real harm that his actions have caused to tarnish the administration of justice in Canada.

The term “Judicial activism”, is a term that Canadians have been hearing more and more about these days.

The term describes when judges make laws of their own and circumvent laws as intended by Parliament to maintain the rule of law in our democracy.

It would seem that judicial activism and judicial nepotism is at work involving Justice Zuker.

When one of their own break the law, fellow judges seem to just ignore the law as it is written and conveniently label a crime under the Criminal Code using the term, “judicial misconduct.”

The actions of Justice Zuker amounted to breaking of the law as defined under the Criminal Code of Canada.

More specifically, Justice Zuker’s actions amounted to an obstruction of justice, a crime which is clearly defined in the Criminal Code.

Section 139 of the Code states the following:

139. (1) Every one who wilfully attempts in any manner to obstruct, pervert or defeat the course of justice in a judicial proceeding, is guilty of:

(c) an indictable offence and is liable to imprisonment for a term not exceeding two years, or

(d) an offence punishable on summary conviction.

The Criminal Code is clear and refers to “**every one**” in Canada. It is also very clear in that it states, “**in any manner to obstruct justice in a judicial proceeding.**”

There are no exceptions made for judges to obstruct justice and in fact the Chief Justice of Canada’s Supreme Court, the Honourable Beverly McLaughlin stated on June 3, 2004, “In a democracy, **everyone** from the simplest citizen to the highest politician, **must** conduct themselves in accordance with the law.”

Why is Justice Zuker allowed to break the law?

The actions of Justice Zuker were to pervert or defeat the course of Justice by altering the transcripts

to interfere with the party's ability to appeal the case, clearly an obstruction of justice.

The actions of Justice Zuker involved a number of steps which were not done by sheer accident.

In addition to the Criminal Code aspects of Justice Zuker's actions, the question of his integrity must be raised.

In 2006, the Ontario Judicial Council released their annual report which included a specific section on integrity.

Section one of their report which outlines the Council's position on integrity reads as follows:

"In Canada, our sense of fairness depends on more than judges' decisions—it depends on their behaviour and attitudes as well. Judges must ensure that their conduct, both inside and outside the courtroom, enhances Canadians' sense of fairness and trust in their judiciary."

In addition to the criminal component of his actions, Justice Zuker has violated the very principles that he and his fellow jurists claim to follow.

Justice Zuker cannot use the excuse he did not know what he was doing for he is praised as being a seasoned and well respected judge who was appointed to the bench in 1978.

He has written a number of books and is currently an associate professor at the University of Toronto.

When the issue of Justice Zuker tampering with transcripts became known to the public, a well-respected Toronto family law lawyer reported that Justice Zuker had once plagiarised his own legal writings in one of his rulings a few years earlier.

According to the lawyer, Justice Zuker copied the lawyer's writing "word by word" as if it was the judge's own without any credit to the lawyer's own original work.

This is no doubt another issue of questionable ethics employed by Justice Zuker which may raise some questions as to his rise to power over his years on the bench.

Not only do Canadians expect our judges to obey the laws but expect them to maintain integrity for the justice system itself.

By letting Justice Zuker off the hook for what most Canadians would see as a criminal act, the Ontario Judicial Council has sent a strong message to the public that judges in Ontario are above the laws of Canada which govern the rest of the people.

To many Canadians, the actions of the Ontario

Judicial Council fail to protect the public's interest and are nothing short of judicial nepotism.

By failing to remove Justice Zuker from the bench for breaking the law and violating the trust of the people, the Ontario Judicial Council has shown that it will do nothing to effectively protect the public's interest in the administration of justice.

By its actions, the Ontario Judicial Council has shown that it is nothing more than a farce handing out "get out of Jail Free" cards to whom it chooses.

Reading the Criminal Code, many would say that the actions of the Ontario Judicial Council amount to an obstruction of Justice as well by allowing a judge to break the law.

Justice Zuker has broken the law and any Canadian who reads the Criminal Code can see that.

Justice Zuker should be made to face the same consequences as the rest of us Canadians.

He should be charged, removed from the bench while his matter is before the court and given his day in court where members of the public can attend and see for themselves if justice is being served equally to all Canadians.

The Ontario Judicial Council is supposed to be protecting the public's interest in the administration of justice by ensuring that judges do their jobs within the law, not turning their backs on the people of Ontario by abusing their power to protect one of their fellow judges who has broken the laws of this country.

The standard of having one set of unwritten laws for judges and a different set of laws for the rest of Canadians is not acceptable.

All Canadians should be outraged at the actions of Justice Zuker and the Judicial Council.

It is time for our law-makers and law enforcement agencies to take action to fix this problem and to make Justice Zuker and the Ontario Judicial Council accountable for their actions.

To quote one of Canada's great former Prime Ministers, Mr. John Diefenbaker:

"We must vigilantly stand on guard within our own borders for human rights and fundamental freedoms which are our proud heritage.....we cannot take for granted the continuance and maintenance of those rights and freedoms."

Not only is the very integrity of Canada's justice system at stake in this matter involving Justice Zuker and the Ontario Judicial Council, but the future of Canada as a free and democratic society as well.