



SUPREME COURT OF GEORGIA
Matter No. S24U0190

November 3, 2023

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

IN RE: PROSECUTING ATTORNEYS QUALIFICATIONS
COMMISSION RULES AND CODE OF CONDUCT.

The Court is in receipt of correspondence from the Commission dated September 30, 2023, wherein the Commission transmitted to this Court draft standards of conduct and rules for the Commission’s governance pursuant to OCGA § 15-18-32 (g). That Code Section provides that “such standards and rules shall be effective only upon review and adoption by the Supreme Court.”

Before taking action on the standards and rules, the Court must first assure itself that it has power to do so. The Court is limited to exercising only the judicial power that the Georgia Constitution vests in it. See Ga. Const. of 1983 Art. VI, § I, ¶ I (vesting the judicial power of the state “exclusively” in the classes of courts); see also *Sons of Confederate Veterans v. Henry County Bd. of Commrs.*, 315 Ga. 39 (2) (b) (880 SE2d 168) (2022) (“The judicial power is that which declares what law is, and applies it to past transactions and existing cases; expounds and judicially administers the law; it interprets and enforces the law in a case in litigation.”) (cleaned up); Ga. Const. of 1983 Art. I, § II, ¶ III (“The legislative, judicial, and executive powers shall forever remain separate and distinct; and no person discharging the duties of one shall at the same time exercise the functions of either of the others

except as herein provided.”). The Court questions whether adoption of standards and rules governing the exercise of non-judicial power by state officers is within that judicial power, particularly when those state officers exercise no judicial power and there is no express grant of constitutional authority for the Court to regulate those state officers’ exercise of state power. Compare Ga. Const. of 1983 Art. VI, § VII, ¶ VI-VIII (vesting the Court with express authority over the discipline of judges).

Accordingly, the Court requests that the Commission file a letter brief addressing this question within 14 days of the date of this order.

SUPREME COURT OF THE STATE OF GEORGIA
Clerk’s Office, Atlanta

I certify that the above is a true extract from the minutes of the Supreme Court of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

 , Clerk