

SUPREME COURT OF LOUISIANA

No. 97-O-1143

IN RE: JUDGE THOMAS P. QUIRK

VICTORY, J. Concurring with additional reasons

I agree wholeheartedly with the majority opinion. However, I write separately because the majority opinion does not go far enough in giving guidance to sentencing judges.

Although this Court does not decide the issue of whether mandated church attendance violates the Establishment Clause of the First Amendment to the United States Constitution, it is clear that offering church attendance as a choice along with non-religious conditions of probation, such as community service, is constitutional. *See* Michael G. Honeymar, Note, Alcoholics Anonymous As a Condition of Drunk Driving Probation: When Does It Amount to Establishment of Religion?, 97 Colum. L. Rev. 437 (1997); *O'Connor v. State of California*, 855 F. Supp. 303, 308 (C.D. Cal. 1994) (in holding that requiring a person to attend a self-help program, where principal program available is Alcoholics Anonymous, does not violate the Establishment Clause, states that “[s]ignificant to this Court’s decision is that the individual has a choice over what program to attend”). Indeed, during oral arguments Special Counsel for the Judiciary Commission of Louisiana acknowledged that if defendants were offered the choice of church attendance or performing other non-religious conditions of probation, such as community service, there would be no constitutional or ethical violation.

