

## Here is What an Ancient Text Says About What Should Happen When a Judge Makes the Wrong Decision

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So I was reading the Code of Hammurabi (one of the first codes of law ever written) last night—this is the sort of thing I do for fun—and I was struck by the following provision:

If a judge try a case, reach a decision, and present his judgment in writing; if later error shall appear in his decision, and it be through his own fault, then he shall pay twelve times the fine set by him in the case, and he shall be publicly removed from the judge's bench, and never again shall he sit there to render judgement.

That's a pretty steep penalty for being reversed on appeal.

Not sure if I'm on board with punishing judges for bad decisions but I do find it interesting that one of the earliest laws in human history sought to reign in judicial misbehavior. Perhaps our modern rules requiring unbiased decision making and disclosures of conflicts/recusal accomplish much the same thing. But perhaps not.

Trial was pretty speedy back then as well. The Plaintiff had six months to try his case. If his witness did not appear during that timeframe: "he is an evil-doer, and shall bear the fine of the pending case." So I guess that means fee shifting was available back in ancient Babylon, even if it isn't under the American rule.

I should note that although the Code of Hammurabi was definitely cutting edge for its day—it pre-dated the Law of Moses by about 1,000 years, after all and was the first body of law designed to assure the "strong might not injure the weak"—it was not exactly enlightened by modern Humanist standards. Basically every offense resulted in a death sentence— or someone's kid being executed for their crimes (yikes)— so I am certainly not advocating it be used as a model for any modern laws.

Just thought these provisions were interesting.

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