



JUDICIAL INVESTIGATION COMMISSION

City Center East - Suite 1200 A
4700 MacCorkle Ave., SE
Charleston, West Virginia 25304
(304) 558-0169 • FAX (304) 558-0831

April 8, 2022

Re: JIC Advisory Opinion 2022-13

Dear Magistrate :

Your recent request for an advisory opinion was reviewed by the Judicial Investigation Commission. You want to know if a magistrate or his/her assistant may place a campaign sign in a yard for a family member who is running for office when both reside in the same household.

To address your question, the Commission has reviewed Rules 2.12(A), 4.1(A)(3) and 4.1(B) of the Code of Judicial Conduct which state:

Rule 2.12 Supervisory Duties

- (A) A judge shall require court staff, court officials, and others subject to the judge's direction and control to act in a manner consistent with the judge's obligations under this Code.

Rule 4.1 Political and Campaign Activities . . . in General

- (A) Except as permitted by law, or by Rules 4.2, 4.3, and 4.4, a judge or a judicial candidate shall not:

(3) publicly endorse or oppose a candidate for any public office;

- (B) A judge or judicial candidate shall take reasonable measures to ensure that other persons do not undertake, on behalf of the judge or judicial candidate, any activities prohibited under paragraph (A).

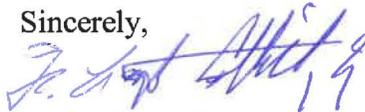
Comments [4] and [5] to Rule 4.1 are instructive to the issue of whether judges or their immediate staff members can support family members in their quest for public office:

- [4] Paragraphs (A)(2) and (A)(3) prohibit judges and judicial candidates from making speeches on behalf of political organizations or publicly endorsing or opposing candidates for public office, respectively, to prevent them from abusing the prestige of judicial office to advance the interests of others. . . .
- [5] Although members of families of judges and judicial candidates are free to engage in their own political activity, including running for public office, **there is no “family exception” to the prohibition in paragraph (A)(3) against a judge or candidate publicly endorsing candidates for public office.** A judge or judicial candidate must not become involved in, or publicly associated with a family member’s political activity or campaign for public office. **To avoid public misunderstanding, judges and judicial candidates should take, and should urge members of their families to take reasonable steps to avoid any implication that they endorse any family member’s candidacy or other political activity.**

(emphasis added).

Based upon the foregoing, the Commission is of the opinion that no judge or immediate staff member shall place a campaign sign of any family member running for office in his/her yard even if the candidate resides in the same home because the public will be unable to ascertain whether the support comes solely from the candidate, the judicial officer/employee or both. We hope that this opinion fully addresses the issue which you have raised. Please do not hesitate to contact the Commission should you have any questions, comments or concerns or desire additional advice.

Sincerely,



F. Layton Cottrill, Jr., Esquire, Vice- Chairman¹
Judicial Investigation Commission

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¹ JIC Chairman Alan D. Moats, Judge of the 19th Judicial Circuit has been appointed as a temporary Justice of the Supreme Court of Appeals of West Virginia beginning February 7, 2022 following the February 6, 2022 resignation of former Justice Evan Jenkins. Judge Moats will serve as a Justice until such time as Governor Justice has filled the vacancy and the appointee takes the bench. Until that time, Judge Moats will serve as a non-voting *ex officio* member of the JIC.