



## JUDICIAL INVESTIGATION COMMISSION

Room E-400, State Capitol

Charleston 25305

November 11, 1991

Re: JIC Advisory Opinion 1991-10

Dear

In a letter to Counsel for the Judicial Investigation Commission dated September 5, 1991, you enclosed certain correspondence from                      and from Judge                      of the                      Judicial Circuit. The inquiries raised in your enclosures and your letter seek an advisory opinion regarding the ability of a retired judge to practice law. Specifically, you ask whether Judge                      who is retired and who is neither receiving compensation as a full-time judge nor is eligible for recall to                      County under the Administrative Rules of the Supreme Court is eligible to practice law in                      County.

The question that you have raised is controlled by the language set forth in Canon 7 of the Judicial Code of Ethics and the Administrative Rule of the Supreme Court of Appeals which you have attached to your letter. In Canon 7 under "Compliance with the Judicial Code of Ethics," Item C states:

- C. Retired Judge. A retired judge who receives the same compensation as a full-time judge on the court from which he retired and is eligible for recall to judicial service should comply with all the provisions of this Code except Canon 5G, but he should refrain from judicial service during the period of an extra-judicial appointment not sanctioned by Canon 5G. All other retired judges eligible for recall to judicial service should comply with the provisions of this Code governing part-time judges.

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The language set forth in the Administrative Rule adopted by the Court on February 1, 1991, states in pertinent part:

It was determined that no judge who practices law should be recalled to duty in any county where he is actively engaged in the practice of law or taking cases from residents of the county. However, a retired judge who practices law may be recalled to areas outside the counties where he/she actively practices.

Based on the language set forth in Canon 7, Item C, under "Compliance with the Judicial Code of Ethics" and the Administrative Rule of the Supreme Court, it is the opinion of the Judicial Investigation Commission that Judge                      may be recalled to serve as a judge in areas outside the counties where he actively practices. Conversely he may practice law in those counties in which he is not eligible to or refuses to be eligible for recall as a judge. Since he is not receiving compensation as a full-time judge or is eligible for recall to                      County under the Administrative Rules of the Supreme Court, he is eligible to practice law in County.

Very truly yours,

  
W. Jack Stevens, Chairman

CRG/bl  
cc: