



JUDICIAL INVESTIGATION COMMISSION

Room E-400, State Capitol

Charleston 25305

July 23, 1992

JIC Advisory Opinion 1992-16

Dear Mr. :

In your request for an advisory opinion dated April 6, 1992, you asked whether an incumbent candidate for judicial office may ask or require his or her employee who is not a candidate for judicial office to appear at political functions and make speeches on the judicial officer's behalf; and whether a judicial officer's employee who is not a candidate for judicial office may appear at public functions and make a speech or otherwise make public endorsements of a candidate for judicial office when not being asked or required to do so.

This inquiry was reviewed by the Judicial Investigation Commission at a recent meeting. After a review of the issues raised and a full discussion of the questions posed, the Judicial Investigation Commission feels that an incumbent candidate for judicial office may not ask or require his or her employee who is not a candidate for judicial office to appear at political functions and make speeches on behalf of the judicial officer. The language contained in Canon 7A(1)(b) and (2) when read in conjunction with the language contained in Canon 7B(1)(b) would support this conclusion. The language does not specifically prohibit the actions which you inquire about in your letter. However, the language set forth does purport to prevent abuses by a candidate for judicial office. The potential for abuse and subsequent violation of the intent and spirit of Canon 7 would be great if candidates for judicial office were permitted to request or require their employees to attend political functions and make speeches on their behalf.

Mr.

- 2 -

July 23, 1992

A more difficult question is presented in the context of your second inquiry that asked if an employee of a judicial officer may voluntarily and freely speak out or publicly endorse a candidate for judicial office. While the potential for abuse is present and there is a latent appearance of impropriety problem, it would be constitutionally difficult to prohibit such action that was voluntarily and freely undertaken.

Hopefully, this opinion will address those concerns which you have raised. If there is any further question regarding this matter, do not hesitate to contact the Commission.

Very truly yours,


Fred L. Fox, II
Chairman

CRG/bl