



JUDICIAL INVESTIGATION COMMISSION

Building 1, Room E400
1900 Kanawha Boulevard, East
Charleston, WV 25305-0834

February 25, 1994

Re: JIC Advisory Opinion 1994-06

Dear

Your recent correspondence to the Judicial Investigation Commission seeking an advisory opinion was reviewed at the Commission's recent meeting. In that letter you asked if you would be able to run for the office of County Commissioner in West Virginia, while continuing to serve as the Family Law Master for the Judicial Circuit for the remainder of your term which expires on June 30, 1994.

The question which you have raised is addressed in Canon 5 of the Code of Judicial Conduct. That Canon states in pertinent part:

CANON 5

A JUDGE OR JUDICIAL CANDIDATE SHALL REFRAIN FROM INAPPROPRIATE POLITICAL ACTIVITY

A. All Judges and Candidates.

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(2) A judge shall resign from judicial office upon becoming a candidate for a non-judicial office either in a primary or in a general election, except that the judge may continue to hold judicial office while being a candidate for election to or serving as a delegate in a state constitutional convention if the judge is otherwise permitted by law to do so.

February 25, 1994

The Commission reviewed the pertinent sections of the West Virginia Constitution and Statute governing the office of county commissioner in ascertaining whether that position was a non-judicial office.

After reviewing the relevant constitutional and statutory provisions as well as the language in Canon 5 of the Code of Judicial Conduct, it is the opinion of the Commission that the office of county commissioner is a non-judicial office and that you would be required to resign from your position as Family Law Master for the First Judicial Circuit. It is also the opinion of the Commission that since you are serving currently as a Family Law Master while being a candidate for a non-judicial office, you should immediately either withdraw from the candidacy for county commissioner or resign as Family Law Master.

It is hoped that this opinion addresses all of the issues which you have raised in your correspondence. If there is any further question concerning this matter, do not hesitate to contact the Commission.

Very truly yours,

Fred L. Fox, II

Fred L. Fox, II, Chairman

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