



JUDICIAL INVESTIGATION COMMISSION

212 Dickinson Street
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November 3, 1995

Re: JIC Advisory Opinion 1995-30

Dear

Your letter to Counsel for the Judicial Investigation Commission dated September 6, 1995, in which you seek an advisory opinion was reviewed by the Commission at its recent meeting. In that correspondence you state that you are employed as a part-time Juvenile Referee for _____ County. You state that your designated and limited statutory duties include the determination of probable cause based upon juvenile petitions which have been formally filed, detention hearings, and ordering physical and psychological evaluations. You indicate that as stated in the Juvenile Referee Act, you are not permitted to make a disposition on any case. You also state that you have accepted court-appointed criminal cases in counties other than _____ County. You asked whether it would be a violation of the Code of Judicial Conduct for you to serve as part-time Juvenile Referee for _____ County and represent criminal defendants in counties other than _____ on a court-appointed bases.

Canon 6 of the Code of Judicial Conduct sets forth the application of the Code to various judicial officers in this state. Canon 6C states in pertinent part:

CANON 6

APPLICATION OF THE CODE OF JUDICIAL CONDUCT

C. Continuing Part-time Judge. A continuing part-time judge:

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(2) may practice law in the court on which the judge serves or in any court subject to the appellate jurisdiction of the court on which the judge serves, but shall not act as a lawyer in a proceeding in which the judge has served as a judge in any other proceeding related thereto, or in any matter involving the same subject-matter jurisdiction.

The commentary to this portion of the Canon states that a juvenile referee may not accept any juvenile matters or serve as an attorney in any proceeding related to a case in which he or she has served as a juvenile referee.

Based upon the application of the Code of Judicial Conduct to your judicial office, it is the opinion of the Commission that you could serve as a criminal defense lawyer in counties other than Kanawha. You should refrain from doing criminal defense work in County, but could continue to handle criminal defense cases in counties in which you are not serving as a part-time juvenile referee.

It is hope that this opinion fully addresses the issues which you have raised in your correspondence.

Very truly yours,



Fred L. Fox, II, Chairman

FLF,II/bl