



## JUDICIAL INVESTIGATION COMMISSION

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September 4, 1997

Re: JIC Advisory Opinion 1997-22

Dear

Your recent correspondence to the Judicial Investigation Commission has been reviewed by the members.

In your letter, you request an advisory opinion concerning the propriety of writing a letter, at the request of Judge lawyer, to the Supreme Court about your impressions of For purposes of this opinion, the members have assumed that you have been asked to author a favorable letter about his character, and that this letter will be submitted with the judge's formal response to ethics charges pending before the Supreme Court.

To address this request, a review of Canon 2(B) of the Code of Judicial Conduct must be made. This canon states:

B. A judge shall not allow family, social, political, or other relationships to influence the judge's conduct or judgment. A judge shall not lend the prestige of judicial office to advance the private interests of the judge or others; nor shall a judge convey or knowingly permit others to convey the impression that they are in a special position to influence the judge. A judge shall not testify voluntarily as a character witness.

The Commentary section of this canon further explains that "a judge may, based on the judge's personal knowledge, serve as a reference or provide a letter of recommendation on official letterhead." However, the Commentary also states that "a judge

September 4, 1997

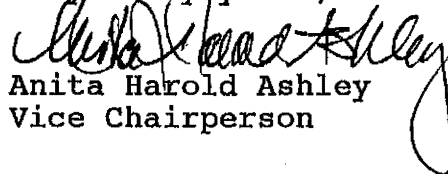
must not testify voluntarily as a character witness because to do so may lend the prestige of the judicial office in support of the party for whom the judge testifies." The Commentary further states that the Judge should discourage a party who seeks to require such testimony.

A majority of the Commission members believes that the type of letter requested by \_\_\_\_\_ lawyer is more in the form of character testimony, which given without a subpoena, would be prohibited by Canon 2(B). In view of the circumstances giving rise to the requested letter and its intended use in a court proceeding, we believe that this is character testimony and is distinguished from the permitted letter of recommendation or reference.

If properly summoned to testify as a character witness in the ethics proceeding, you could give the Supreme Court your opinion about \_\_\_\_\_. You could also write a letter of recommendation to prospective employers or be listed as a reference on his resume, if \_\_\_\_\_ seeks other employment. We believe, however, that it would be a violation of the Code of Judicial Conduct for you to write the letter requested by \_\_\_\_\_ lawyer to be used in his formal response to ethics charges.

If you have any further questions regarding this matter, please contact the Commission.

Very truly yours,

  
Anita Harold Ashley  
Vice Chairperson

AHA/bl