



JUDICIAL INVESTIGATION COMMISSION

Post Office Box 1629
Charleston, West Virginia 25326-1629
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August 27, 2007

Re: JIC Advisory Opinion 2007-20

Dear

In a recent letter you asked for an advisory opinion from the Judicial Investigation Commission. In that correspondence you stated that you hired _____ as your assistant two years ago this July. At the time, she was 21 years old and single. She is a good employee and has only missed two sick days in two years. On September 1, 2007, she is marrying _____ of the _____ City Police Department. You also stated that on occasions she rides with _____ during his midnight shift. You asked whether there were any ethical problems for your office because of this situation.

To address the questions which you have raised, the Commission has reviewed Canon 3 of the Code of Judicial Conduct. Canon 3 states in relevant part:

Canon 3. A judge shall perform the duties of judicial office impartially and diligently.

- A. Judicial duties in general. – The judicial duties of a judge take precedence over all the judge's other activities. The judge's judicial duties include all the duties of the judge's office prescribed by law. In the performance of these duties, the following standards apply.
- E. Disqualification. – (1) A judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned. . .

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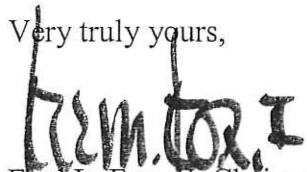
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The commentary to this Canon states “[U]nder this rule, a judge is disqualified whenever the judge’s impartiality might reasonably be questioned, regardless whether any of the specific rules in Section 3E(1) apply. . . A judge should disclose on the record information that the judge believes the parties or their lawyers might consider relevant to the question of disqualification, even if the judge believes there is no real basis for disqualification.”

Based upon the language contained in this Section of Canon 3 and the following commentary, it is the opinion of the Commission that you would be recused from those cases in which Officer Vensel is directly involved. See also, State ex rel. Brown v. Dietrick, 191 W.Va. 169, 444 S.E.2d 47, (1994).

Some members expressed a concern that your assistant is riding in a police car on occasion. It is hoped that this opinion fully addresses the question which you have raised. If there is any further question regarding this matter do not hesitate to contact the Commission.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Fred L. Fox, II", written over a faint, larger version of the same signature.

Fred L. Fox, II, Chairperson
Judicial Investigation Commission

FLF,II:nb