



## JUDICIAL INVESTIGATION COMMISSION

Post Office Box 1629  
Charleston, West Virginia 25326-1629  
(304) 558-0169 • FAX (304) 558-0831

December 21, 2007

Re: JIC Advisory Opinion 2007-29

Dear \_\_\_\_\_

You asked for an advisory opinion in a recent letter to the Judicial Investigation Commission. You stated in that letter that you had read in a newspaper that some judges in Georgia were being investigated by the Judicial Disciplinary Commission. One of the things the judge was being investigated for was "talking to his probation officer about defendants without holding a hearing or notifying the victims or the prosecutor." This caused some concern because you talked to your probation officers before sentencing and frequently discuss how defendants on probation are doing, especially if they are not doing very well. In that letter you also stated that you have decided to seek reelection and one of the local attorneys has agreed to serve as your campaign committee chairman/treasurer and another attorney will serve on the committee. You asked whether you needed to disclose this information when they appear before you in court.

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

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

B. Adjudicative responsibilities.

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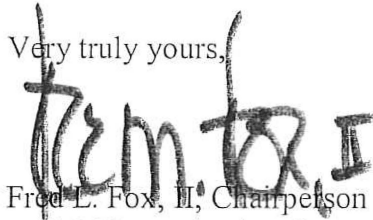
- (7) A judge shall accord to every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard according to law. A judge shall not initiate, permit, or consider ex parte communications, or consider other communications made to the judge outside the presence of the parties concerning a pending or impending proceeding except that:
- (c) A judge may consult with court personnel whose functions include aiding the judge and carrying out the judge's adjudicative responsibilities or with other judges.

Based on this language contained in Canon 3, it is the opinion of the Commission that you may confer with your probation officers without holding a hearing or notifying the parties or the prosecuting attorney.

The second question, which you have raised, was discussed by the Judicial Investigation Commission in a prior advisory opinion. That opinion states that you must disclose the campaign committee chairman/treasurer relationship that you will have with the attorneys when they appear in your court. A copy of this advisory opinion is enclosed for your review.

It is hoped that this opinion fully addresses the questions which you have raised. If there is any further question regarding these matters do not hesitate to contact the Commission.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Fred L. Fox, II". The signature is stylized with a large, looped "F" and "L".

Fred L. Fox, II, Chairperson  
Judicial Investigation Commission

FLF,II:nb  
Enclosure