



JUDICIAL INVESTIGATION COMMISSION

City Center East - Suite 1200 A
4700 MacCorkle Ave., SE
Charleston, West Virginia 25304
(304) 558-0169 • FAX (304) 558-0831

April 7, 2014

Re: JIC Advisory Opinion 2014-09.

Dear

Your recent request for an advisory opinion to Counsel was reviewed by the Judicial Investigation Commission. The factual scenario giving rise to your request is as follows: You have been approached by the campaign committees of two candidates for family court judge who have asked you to place signs in support of their respective candidates in front of your law office. You would like to know if your status as a Mental Hygiene Commissioner precludes you from posting signs or engaging in any other campaign activity on behalf of one or more family court judges in your jurisdiction.

Mental Hygiene Commissioners are continuing part-time judges and are required to comply with the vast majority of Canons contained in the Code of Judicial Conduct. However, Canon 6C(1)(b) provides that a Mental Hygiene Commissioner "is not required to comply at any time with . . . [Canons] 5A(1) [and] 5D" which state in pertinent part:

Canon 5

A judge or judicial candidate shall refrain from inappropriate political activity.

A. All judges and candidates.

(1) Except as authorized in Sections 5B(2), 5C(1), and 5C(3), a judge or a candidate for election or appointment to judicial office shall not: . . .

(b) publicly endorse or publicly oppose another candidate for public office;

...

D. Incumbent judges. A judge shall not engage in any political activity except (i) as authorized under any other Section of this Code, (ii) on behalf of measures to improve the law, the legal system or the administration of justice, or (iii) as expressly authorized by law.

Notwithstanding these provisions, the Commission believes the public display of campaign signs in front of a Mental Hygiene Commissioner's law office may create an appearance of impropriety under Canon 2A. Judges hold an important and unique position. Judges are limited in what they can say or do during a political campaign, and there are good reasons for these restrictions. The overriding principle is that our judicial system is based upon a judge being fair, unbiased and independent. The public may perceive, however incorrectly, a lack of independence on the part of a judge who campaigns for a political candidate. Therefore, to avoid the appearance of impropriety, the Commission believes that the soundest decision for you as a part-time judge to make is not to display any campaign signs in front of your law office.

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

Sincerely,

A handwritten signature in blue ink, appearing to read "Ronald E. Wilson", with a long horizontal flourish extending to the right.

Ronald E. Wilson, Chairperson
Judicial Investigation Commission

REW/tat