



JUDICIAL INVESTIGATION COMMISSION

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

February 20, 2015

Re: JIC Advisory Opinion 2015-03.

Dear

Your request for an advisory opinion was recently reviewed by the Judicial Investigation Commission. You want to know if it is permissible for your husband to work as an independent process server in _____ County.

To address the question which you have raised, the Commission has reviewed Canons 1A, 2A and 3E(1)(c) of the Code of Judicial Conduct. Canon 1A provides:

An independent and honorable judiciary is indispensable to justice in our society. A judge should participate in establishing, maintaining, and enforcing high standards of conduct, and shall personally observe those standards so that the integrity and independence of the judiciary will be preserved. The provisions of this Code are to be construed and applied to further that objective.

Canon 2A states:

A judge shall respect and comply with the law, shall avoid impropriety and the appearance of impropriety in all of the judge's activities, and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

Canon 3E(1)(c) states:

E. Disqualification.

(1) A judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to instances where:

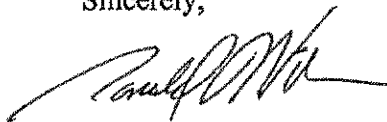
(c) the judge knows that he or she, individually or as a fiduciary, or the judge's spouse . . . has an economic interest in the subject matter in controversy or is a party to the proceeding or has any other more than *de minimis* interest that could be substantially affected by the proceeding; . . .

Process servers ensure due process by delivering court summons to the parties involved in legal disputes in the Magistrate and Circuit Courts of West Virginia. Service of process is governed by numerous rules, regulations and laws including but not limited to, Rule 3 of the Rules of Civil Procedure for the Magistrate Courts of West Virginia and Rule 4 of the Rules of Civil Procedure for Trial Courts of Record. It is important that all relevant procedures be carefully followed, or the entire case may be jeopardized. As such, challenges are often made in Magistrate and/or Circuit Court as to the validity of the service of process in any given case.

Based upon the foregoing, the Commission felt that it would be improper for your husband to work as a process server in _____ County while you are a Magistrate. Despite your best efforts, the situation could lead to difficulties with case reassignments or potentially cause allegations against you at a future time. *See JIC Advisory Opinions 2013-10* (magistrate's wife cannot work as a bail bondsperson in the same county in which he serves or in neighboring counties) and *8/19/2005* (appearance of impropriety would be created if a Magistrate's brother served as a bail bondsman in his court).

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,



Ronald E. Wilson, Chairperson
Judicial Investigation Commission

REW/tat