



JUDICIAL INVESTIGATION COMMISSION

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

March 8, 2016

Re: JIC Advisory Opinion 2016-09.

Dear

Your request for an advisory opinion to Counsel was recently reviewed by the Judicial Investigation Commission. The factual scenario giving rise to your request is as follows: You want to know if a probation officer can make a campaign donation to a judicial candidate's campaign committee? Circuit Judges are responsible for hiring probation officers. The Circuit Judges interview for the position and recommend a finalist to the Supreme Court of Appeals of West Virginia. Upon successful completion of a background check, the Supreme Court employs the finalist and pays his/her salary. Probation officers serve at the will and pleasure of the Circuit Judges. Probation officers are in court almost daily and take direction from the judges on cases. However, the Chief Probation Officer and a Deputy Chief Probation Officer provide day to day supervision.

To address the questions which you have raised, the Commission has reviewed Rules 1.2, 2.12(A), 4.1(a)(5) and 4.1(B) of the Code of Judicial Conduct. Rule 1.2 states that "[a] judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety." Rule 2.12(A) provides that "[a] judge shall require court staff, court officials and others subject to the judge's direction and control to act in a manner consistent with the judge's obligations under this Code."

Importantly, Rule 4.1(A)(5) states that "a judge or a judicial candidate shall not make a contribution to a candidate for public office. Lastly, Rule 4.1(B) provides that "[a] judge or judicial candidate shall take reasonable measures to ensure that other persons do not undertake, on behalf of the judge or judicial candidate, any activities prohibited under paragraph (A)."

Based upon the foregoing, the Commission is of the opinion that a probation officer should not donate to the campaign committee of a judge or judicial candidate. The Commission hopes that this opinion fully addresses the issues which you have raised. Please do not hesitate to contact the Commission should you have any questions, comments or concerns.

Sincerely,

A handwritten signature in black 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