



JUDICIAL INVESTIGATION COMMISSION

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

January 17, 2019

Re: JIC Advisory Opinion 2019-03.

Dear

Your recent request for an advisory opinion was reviewed by the Judicial Investigation Commission. The factual scenario giving rise to your request is as follows:

You are a member of a volunteer fire department and have been for over 20 years. Recently, the members of the County Firefighters Association nominated you to sit on the County Fire Board. As a board member, you would research information and propose the enactment of a countywide fire service fee. As part of your duties you would also educate the public on the need for the fee and you would assist in drafting of an ordinance. This is a strictly volunteer position. You will not receive any gifts or compensation for your participation or handle any funds while in this position.

To address the questions, the Commission has reviewed Rules 1.3, 3.1(A), (B) and (C), and 3.7 of the Code of Judicial Conduct which state:

Rule 1.3 Avoiding Abuse of the Prestige of Judicial Office

A judge shall not abuse the prestige of judicial office to advance the personal or economic interests of the judge or others, or allow others to do so.

Rule 3.1 Extrajudicial Activities in General

A judge may engage in extrajudicial activities, except as prohibited by law or this Code. However, when engaging in extrajudicial activities, a judge shall not:

- (A) participate in activities that will interfere with the proper performance of the judge's judicial duties;

- (B) participate in activities that will lead to frequent disqualification of the judge;
- (C) participate in activities that would appear to a reasonable person to undermine the judge's independence, integrity, or impartiality;

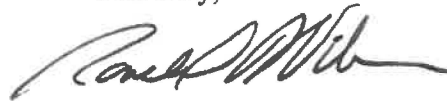
Rule 3.7 Participation in Educational, Religious, Charitable, Fraternal, or Civic Organizations and Activities

- (A) Subject to the requirements of Rule 3.1, a judge may participate in activities sponsored by organizations or governmental entities concerned with the law, the legal system, or the administration of justice, and those sponsored by or on behalf of educational, religious, charitable, fraternal, or civic organizations not conducted for profit, including but not limited to the following activities: . . .
 - (2) soliciting contributions for such an organization or entity, but only from members of the judge's family, or from judges over whom the judge does not exercise supervisory or appellate authority;

Based upon the foregoing, the Commission finds that you cannot serve on the County Fire Board. The duties of a board member are such that the public, however wrong it may be, could construe that you are using the prestige of your office to influence a political question. Moreover, the "education" requirement is tantamount to the solicitation of money, which a magistrate cannot engage in even for such a worthwhile cause. Lastly, most actions to collect delinquent fire fees are filed in Magistrate Court, and once appealed to Circuit Court, the constitutionality of the fee is generally questioned.

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 black ink, appearing to read "Ronald E. Wilson", with a stylized, flowing script.

Ronald E. Wilson, Chairperson
Judicial Investigation Commission