



JUDICIAL INVESTIGATION COMMISSION

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

September 10, 2019

Re: JIC Advisory Opinion 2019-21.

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 have been asked to appear on a nationally broadcast podcast hosted by a well-known legal commentator and journalist. You would be discussing cold cases from other states. You want to know if this is permissible or if it would violate the Code of Judicial Conduct.

To address your question, the Commission has reviewed Rule 2.10 which provides in pertinent part:

- (A) A judge shall not make any public statement that might reasonably be expected to affect the outcome or impair the fairness of a matter pending or impending in **any** court, or make any non public statement that might substantially interfere with a fair trial or hearing.

....

- (D) Notwithstanding the restrictions in paragraph (A), a judge may make public statements in the course of official duties, may explain court procedures, and may comment on any proceedings in which the judge is a litigant in a personal capacity.

(emphasis added). Comment [1] states that “[t]his Rule’s restrictions on judicial speech are essential to the maintenance of the independence, integrity and impartiality of the judiciary.”

Based upon the foregoing, the Commission finds that it would be improper for you to discuss cold cases from other states since those matters could one day come before a court. Therefore, the Commission is of the opinion that you should not participate in the event as described as it is likely that such activity could result in a violation of Rule 2.10.

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 "Alan D. Moats", with a long horizontal flourish extending to the right.

Alan D. Moats, Chairperson
Judicial Investigation Commission

ADM/tat