



**JUDICIAL INVESTIGATION COMMISSION**

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

October 30, 2019

Re: JIC Advisory Opinion 2019-22.

Dear Judge :

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 an elected circuit court judge. Your husband has announced his candidacy for Governor. You want to know what, if anything, you may do in connection with your husband's campaign. Specifically, you want to know (1) if you can attend fundraisers; (2) if you can attend fundraisers in your own home that are being held by your husband; (3) if you can appear in campaign ads and photos as long as you are not identified as a judge; (4) whether you can appear with your husband and other family members at other political events such as parades; and (5) whether you can formally introduce your husband and talk about him as a husband and father at fundraisers or other political functions.

To address your question, the Commission has reviewed various provisions of Rule 4.1(A) and Rule 4.2(B) of the Code of Judicial Conduct. Rule 4.1(A) states:

- (A) Except as permitted by law, or by Rules 4.2, 4.3 and 4.4, a judge or a judicial candidate shall not: . . . .
  - (3) publicly endorse or oppose a candidate for any public office;
  - (4) solicit funds for a political organization or a candidate for public office; . . . .

Rule 4.2(B)(3) states that "[a] judge or candidate subject to public election may, except as prohibited by law attend or purchase tickets for dinners or other events sponsored by a political organization or candidate for public office."

Comment [5] to Rule 4.1 states:

Although members of the families of judges and judicial candidates are free to engage in their own political activity including running for public office, there is no “family exception” to the prohibition in paragraph (A)(3) against a judge or candidate publicly endorsing candidates for public office. A judge or judicial candidate must not become involved in, or publicly associated with a family member’s political activity or campaign for public office. To avoid public misunderstanding, judges and judicial candidates should take, and should urge members of their families to take reasonable steps to avoid any implication that they endorse any family member’s candidacy or other political activity.

Based upon the foregoing, the Commission finds that consistent with Rule 4.2(B)(3) you may attend fundraisers for your husband outside the marital home. However, you may not attend a fundraiser put on by your husband in your marital home as the public may construe that you are endorsing your spouse or soliciting funds on his behalf which is clearly prohibited by Rules 4.1(A)(3) and (4). Likewise, for the same reasons, you may not appear in a parade<sup>1</sup> with your husband and may not introduce him or speak about him at campaign events. Consistent with prior opinions, your name and photograph may appear in your husband’s campaign literature or other official campaign photographs as long as you are not identified as a judge. As to any other campaign activity, the Commission will have to review the matter(s) on a case by case basis to determine what is acceptable and what would constitute a violation of the Code of Judicial Conduct. You should be mindful that acceptable conduct will be narrow since the Code only permits limited conduct on the part of a judge in other individual’s campaign activities.

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", is written over a horizontal line.

Alan D. Moats, Chairperson  
Judicial Investigation Commission

ADM/tat

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<sup>1</sup> To the extent that this opinion is inconsistent with JIC Advisory Opinion 6/19/1991 on a judge’s ability to appear in a parade with a spouse running for office, JIC Advisory Opinion 6/19/1991 is **overruled** (emphasis added).