



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 4, 2020

Re: JIC Advisory Opinion 2020-05.

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 have been asked to sign a letter in opposition to the impeachment of President . The letter, which is addressed to U.S. Senator states in pertinent part:

Recently, the United States Senate began the process of considering the impeachment of the President of the United States, . With receipt of this letter, you are hereby advised that the elected officials of _____ County, West Virginia, as evidenced by their signatures affixed hereto, do not and are not in favor of the impeachment of our President. Further, it is with a great sense of urgency, we implore you to vote against this impeachment and support our President, , during this turbulent time.”

You want to know if it would violate the Code of Judicial Conduct for you to affix your name to the letter.

To address your question, the Commission has reviewed Rules 1.3, 2.10 and 4.1(A)(3) 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 2.10 – Judicial Statements on Pending and Impending Cases

- (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 nonpublic statement that might substantially interfere with a fair trial or hearing.

Rule 4.1 -- Political and Campaign Activities of Judges . . . in General

- (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;

Based upon the foregoing, the Commission finds that you must not sign the letter. Senator _____ is a juror in the impeachment proceeding. Members of the public may misconstrue, however wrong they may be, that by signing the letter you are using your judicial position in an attempt to influence Senator _____ to vote in favor of President _____ and/or that you are supporting him in the 2020 election. Since the impeachment proceeding is akin to a court proceeding it would also be improper for you to make any public statement about the matter which could, as in this case, substantially interfere with the outcome.

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,



Alan D. Moats, Chairperson
Judicial Investigation Commission