



JUDICIAL INVESTIGATION COMMISSION

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

May 15, 2020

Re: JIC Advisory Opinion 2020-13.

Dear Judge :

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

Last year, you were appointed to the position of Circuit Judge. You are now running to retain your seat in the June 2020 election. A member of the West Virginia House of Delegates has endorsed you for Circuit Judge. The delegate is running for re-election on the same ballot. The endorsement was posted to your campaign Facebook website under a campaign sign that says "Keep Chief Judge " The endorsement is very simple and does not use the delegate's title. It simply mentions his/her name and that he/she "supports Chief Judge " You want to know if it is permissible to use the endorsement in the manner that you describe or if it violates the Code of Judicial Conduct.

To address your question, the Commission has reviewed Rule 4.1(A)(3) which provides in pertinent part that "[e]xcept 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;" The Commission has also considered Rule 4.2(B)(4) which states: that "[a] judge or candidate subject to public election may, except as prohibited by law . . . (4) seek, accept, or use endorsements from any person or organization;" There are no limitations placed on the latter rule as to who may endorse a judicial candidate.

Based upon the foregoing, the Commission is of the opinion that it is proper for you to use the endorsement from a member of House of Delegates in the manner described and since you are clearly not yourself endorsing any candidate for any elected position. It is hoped that this opinion fully addresses the issue raised by you. If there is any further question regarding this matter do not hesitate to contact the Commission.

Sincerely,

A handwritten signature in blue ink, reading "Alan D. Moats". The signature is fluid and cursive, with a long horizontal stroke extending from the end of the name.

Alan D. Moats, Chairperson
Judicial Investigation Commission

ADM/tat