



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 28, 2020

Re: JIC Advisory Opinion 2020-14.

Dear Magistrate :

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:

You were a longtime Magistrate in County. You resigned your position during your last term and moved to County. You are now running in the June 2020 election for Magistrate of County. You want to know if you can use photos of your swearing in as a County Magistrate in your campaign ads for Magistrate of County. You are concerned that people might misconstrue the photo to believe that the Circuit Judge swearing you in is actually endorsing your candidacy for Magistrate of County.

To address your question, the Commission has reviewed Rules 4.1(A)(3) and (9) which provide in pertinent part:

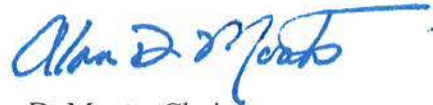
Except as permitted by law, or by Rules 4.2, 4.3, and 4.4, a judge or a judicial candidate shall not:

- (3) publicly endorse or oppose a candidate for any public office;
- (9) knowingly or with reckless disregard for the truth, make any false or misleading statement;

Based upon the foregoing, the Commission is of the opinion that a sitting judicial officer may use a photo of him/her taking the oath of office because there is little chance that it could be misconstrued as an endorsement since the photo would depict the Circuit Judge performing his/her lawful duty of swearing in an elected official. In your case, the Commission is concerned though that the citizens of _____ County might believe that you are already a Magistrate in that county so you must make it clear in a written caption underneath the photo that the swearing in involves your service as Magistrate in _____ County and that you do not now hold office in _____ County.

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,



Alan D. Moats, Chairperson
Judicial Investigation Commission

ADM/tat