



JUDICIAL INVESTIGATION COMMISSION

City Center East - Suite 1200 A
4700 MacCorkle Ave., SE
Charleston, West Virginia 25304
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January 4, 2022

Re: JIC Advisory Opinion 2022-02

Dear Magistrate :

Your recent request for an advisory opinion was reviewed by the Judicial Investigation Commission. Specifically, you want to know if you can concurrently serve as a senior status magistrate and a condemnation commissioner.

The facts giving rise to your request are as follows: You are a senior status magistrate. The Chief Judge in the circuit in which you reside wants to appoint you as a condemnation commissioner. Pursuant to W. Va. Code § 54-2-1 *et seq.*, the circuit court appoints all of the condemnation commissioners. A condemnation commissioner is tasked with ascertaining just compensation for any person(s) whose real property has been taken by eminent domain. According to you, condemnation commissioners may meet up to six times a year and each is paid up to \$50.00 per meeting.

To address your question, the Commission has reviewed Rule 3.1 of the Code of Judicial Conduct which states:

A judge may engage in extrajudicial activities, except as prohibited by law or this Code. However, when engaging in extrajudicial activities, a judge shall not:

- (A) Participate in activities that will interfere with the proper performance of the judge's judicial duties;
- (B) Participate in activities that will lead to frequent disqualification of the judge;

- (C) Participate in activities that would appear to a reasonable person to undermine the judge's independence, integrity or impartiality;
- (D) Engage in conduct that would appear to a reasonable person to be coercive; or
- (E) Make use of court premises, staff, stationery, equipment or other resources except for incidental use for activities that concern the law, the legal system, or the administration of justice, or unless such additional use is permitted by law.

The JIC is of the opinion that serving concurrently as a senior status magistrate and a condemnation commissioner does not violate any of the foregoing provisions since both jobs are part-time/as needed; magistrate courts have no involvement with eminent domain proceedings; condemnation commissioner appointments are made by a judge and not another branch of government; no element of coercion feasible exists; and any use of court resources would be permitted by law. Therefore, the JIC finds that you may concurrently serve as a senior status magistrate and a condemnation commissioner.

We hope that this opinion fully addresses the issue which you have raised. Please do not hesitate to contact the Commission should you have any questions, comments or concerns or desire additional advice.

Sincerely,



Alan D. Moats, Chairperson
Judicial Investigation Commission

ADM/tat