



JUDICIAL INVESTIGATION COMMISSION

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

September 19, 2022

Re: JIC Advisory Opinion 2022-27

Dear :

Your request for an advisory opinion to Counsel was recently reviewed by the Judicial Investigation Commission. The factual scenario giving rise to your request is as follows: There will be a vacancy for Circuit Judge in your jurisdiction in 2024. You plan on running for the position in the May 2024 election. You want to know if you can use the slogan "Prosecutor for Judge."

To address your question the Commission has reviewed Rules 4.1(A)(10) and (11) of the Code of Judicial Conduct which provide:

Rule 4.1 – Political and Campaign Activities of Judges and Judicial Candidates 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:

....

- (10) make any statement that would reasonably be expected to affect the outcome or impair the fairness of a matter pending* or impending in any court; or
- (11) in connection with cases, controversies, or issues that are likely to come before the court, make pledges, promises, or

commitments that are inconsistent with the impartial performance of the adjudicative duties of judicial office.

Judges and Candidates for Judge must remain neutral and detached. To invoke your status as Prosecutor in judicial campaign slogans would appear to the public, however wrong it may be, that you are biased in favor of the State in criminal cases and abuse and neglect matters. Therefore, the Commission is of the opinion that it would be improper for you to use "Prosecutor" in your campaign slogan.

The Commission hopes that this opinion fully addresses the issues which you have raised. Please do not hesitate to contact the Commission should you have any questions, comments or concerns.

Sincerely,

A handwritten signature in blue ink, appearing to read "F. Layton Cottrill", written in a cursive style.

F. Layton Cottrill, Vice-Chairperson¹
Judicial Investigation Commission

FLC/tat

¹ The Chair of the Commission recused himself from the matter.