



JUDICIAL INVESTIGATION COMMISSION

City Center East - Suite 1200 A
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Charleston, West Virginia 25304
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September 7, 2023

Re: JIC Advisory Opinion 2023-20

Dear _____ :

Your request for an advisory opinion to Counsel was recently reviewed by the Judicial Investigation Commission. You are contemplating a run for circuit court judge. You want to know if you can put your political party affiliation on campaign literature.

W. Va. Code §§ 3-5-6(a) through (d), which were adopted in June 2015, require all Supreme Court justices, circuit judges, family court judges and magistrates to be elected by division in nonpartisan races in the primary. In 2021, the statute was amended to include the same for Intermediate Court of Appeal Judges in W. Va. Code § 3-5-6(e).

In November 2015, the State Supreme Court adopted a revised Code of Judicial Conduct which went into effect on December 1, 2015. Rule 4.2(B)(5) of the Code states that “a judge or candidate subject to public election may, except as prohibited by law communicate in person or in advertising membership in, affiliation with, or endorsement by a political party.” Comment [3] to the Rule provides:

A judge or candidate may be a member of a political party, and that affiliation is and has been a matter of public record in West Virginia. A judge or candidate may be endorsed by or otherwise publicly identified or associated with a political party by a person or entity not affiliated with the judicial campaign. Therefore, a judge or candidate may maintain his or her party affiliation through a judicial election, and he or she may include political party affiliation or similar designation in campaign communications and literature.

Based upon the language of the Rule and Comment, it is the position of the Commission that you may use your political party affiliation in campaign materials as long as you state “(insert political party affiliation) running for the nonpartisan position of judge.”

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,



Alan D. Moats, Chairperson
Judicial Investigation Commission