

ADVISORY COMMITTEE
ON STANDARDS OF JUDICIAL CONDUCT

OPINION NO. 1 - 2020

RE: Propriety of a full-time magistrate presiding over criminal cases arising out of a special purpose district where the magistrate's spouse (who is an attorney) is a friend of a board member of a special purpose district.

FACTS

A full-time magistrate judge inquires into the propriety of presiding over criminal cases arising out of a special purpose district ("the District").¹ The magistrate's spouse is an attorney and a friend of a board member of the District (who is also an attorney). Agents of the District—specifically, attorneys and law enforcement officers—prosecute cases before the magistrate. The board member will not appear before the magistrate. The magistrate inquires into the propriety of continuing to preside over criminal cases of the District given the relationship of the District board member with the magistrate's spouse. The District's board member and magistrate's spouse refer cases between themselves and vacation with each other and their spouses.

CONCLUSION

A full-time magistrate may preside over criminal cases involving a special purpose district despite the judge's spouse's friendship with a board member of the special purpose district.

¹ S.C. Code § 6-11-1610 defines "special purpose district" as "any district created by an act of the General Assembly or pursuant to general law and which provides any local governmental power or function including, but not limited to, fire protection, sewerage treatment, water or natural gas distribution, recreation, and means any rural community water district authorized or created under the provisions of Chapter 13 of Title 6. Special purpose districts do not include any state agency, department, commission, or school district." Special purpose districts also include hospital districts, airports, and more.

OPINION

The Code of Judicial Conduct requires disqualification in certain specified instances, such as where the judge's spouse is a party or lawyer in the proceeding; where the judge has a personal bias concerning a party or lawyer to the proceeding; where the judge or person within the judge's household has a more than de minimis economic interest in the proceeding, etc. Canon 3E.(1)(a)-(d). Those circumstances are not present here. The only other section that could potentially apply is the general requirement that a judge should disqualify himself or herself if the judge's impartiality might be reasonably questioned. Canon 3E.(1). There is no indication from the inquiring judge that the judge has a bias or prejudice toward or against the District simply because one of the District's board members is a friend of the judge's spouse. Furthermore, the board member would have no involvement as a party, witness, or attorney in any of the District cases that might come before the judge. Thus, there is no reasonable basis to question the judge's impartiality and no disqualification is required.

s/ Letitia H. Verdin
LETITIA H. VERDIN, CHAIR

s/ Usha Jeffries Bridges
USHA JEFFRIES BRIDGES

December 19, 2019