

ADVISORY COMMITTEE
ON STANDARDS OF JUDICIAL CONDUCT

OPINION NO. 6 - 2020

RE: Propriety of a part-time Magistrate Court Judge's involvement in the political campaign of the judge's son-in-law.

FACTS

A part-time Magistrate Court Judge would like to be involved in the political campaign of the judge's son-in-law.¹ The judge inquires as to the following:

- 1) May the judge participate in putting up yard signs?
- 2) May a Chapter S corporation, in which the judge is a corporate officer and the owner of less than 50% of the stock, make a political contribution to the son-in-law's campaign?
- 3) May a Chapter S corporation, in which the judge is a corporate officer and the owner of more than 50% of the stock, make a political contribution to the son-in-law's campaign?
- 4) May the judge appear at campaign functions with the candidate?
- 5) May the judge appear in campaign ads and/or flyers for the candidate?

CONCLUSION

- 1) A part-time judge may not post yard signs for the son-in-law's campaign.
- 2) A part-time judge may contribute, through Chapter S corporations, to the campaign of the judge's son-in-law.
- 3) A part-time judge may appear at campaign functions with the judge's son-in-law and may appear in ads and flyers, provided that judge's title is not used in

¹ The judge's inquiry also asked that the Committee address these questions for any other political candidate. However, because our opinions are often fact-dependent, and this is especially true where a family member is involved, the Committee addresses only the questions as to the son-in-law's campaign and declines to address these questions as to "any political candidate."

any introductions or advertising material.

OPINION

While "a judicial candidate must encourage members of his or her family to adhere to the same standards of political conduct in support of the candidate that apply to the candidate, family members are free to participate in other political activity." Rule 501, SCACR, Canon 5A(3), Commentary. Thus, a judge's family member can run for office and post campaign signs. Regarding the judge's participation, the Canons prohibit a judge from publicly endorsing a candidate for public office. Canon 5A(1)(b). However, the Canons also note that "Complete separation of a judge from extra-judicial activities is neither possible nor wise; a judge should not become isolated from the community in which the judge lives." Commentary, Canon 4.

In Opinion 6-2016, we addressed a judge's participation in posting campaign signs for a spouse's political campaign and noted that the Canons prohibit a judge from publicly endorsing a candidate for public office. Canon 5A(1)(b). We found that the judge's posting of signs could create the inference of a public endorsement to onlookers. In addition, the judge's actions could also create the appearance the judge is lending the prestige of judicial office to advance a family member's private interests as a political candidate. Thus, the judge should not participate in posting of political signs.

With regard to contributions from the Chapter S corporations in which the judge is an officer and a shareholder (whether 50% or less), we find that the contributions are permissible. While Canon 5A(1)(e) states that a judge shall not "solicit funds for, pay an assessment to or make a contribution to a political organization or candidate, or purchase tickets for political party dinners or other functions[,]" a part-time judge is not bound by this prohibition. The Application of the Code specifically states that a continuing part-time judge "is not required to comply at any time

with...Section[] 5A(1)...” Application of the Code, Sec. C. Thus, the judge may contribute to the campaign of the judge’s son-in-law through the Subchapter S corporations.

Finally, as to whether the judge may attend political functions with the son-in-law or appear in ads/flyers, this Committee addressed similar questions regarding the political campaign of a judge’s spouse in Opinions 7-2014, 14-2003, and 6-2016. In those opinions, we found that a judge could attend a spouse's fundraising and non-fundraising activities, have his or her name and picture (without title) used in campaign materials, and could also attend election night. We find no reason to deviate from the logic of those decisions even though the question presented here involves the judge’s son-in-law instead of a spouse. Thus, we find that the judge may attend campaign events during the campaign process and appear in ads or flyers. However, as we noted in Opinion 14-2003, the judge should not be identified in any way by the use of the words "judge," "honorable" or other references to title when being introduced at campaign functions or in the ads/flyers, and should only be presented as the father-in-law of the candidate.

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

s/ Usha Jeffries Bridges
USHA JEFFRIES BRIDGES

s/ Keith M. Babcock
KEITH M. BABCOCK

April 20, 2020