

ADVISORY COMMITTEE
ON STANDARDS OF JUDICIAL CONDUCT

OPINION NO. 7 - 2020

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

FACTS

A part-time Magistrate Court Judge would like to be involved in the political campaign of the judge's spouse, who is running for a state-wide office. The judge also maintains a law practice that employs the husband. The judge inquires as to the following:

- 1) May the judge make a campaign contribution to the spouse from a personal account in the judge's name or the joint account held by judge and judge's spouse?
- 2) May the judge make campaign contributions to the spouse from the law firm's operating account (the judge is the sole member of the LLC)?
- 3) May the judge or the other lawyer in the law firm assist the spouse's campaign as legal counsel?

The judge also inquires as to whether the opinions of this committee would be the same for partisan or non-partisan races.

CONCLUSION

- 1) A part-time judge may contribute, through a personal account or a joint account with spouse, to the campaign of the judge's spouse.
- 2) A part-time judge may contribute, through the law firm's operating account, to the campaign of the judge's spouse.
- 3) A part-time judge may act as legal counsel to the spouse's campaign.

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. Canon 5A(1)(a)-(e) contains certain prohibitions on political activity by a judge. Specifically, among the prohibited activities, a judge is not to act as a leader in a political organization; should not endorse a candidate for public office; and should not make contributions to a candidate. However, the Application of the Code expressly 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 spouse, whether through a personal account, a joint account with the spouse, or the law firm's operating account.

In addition, since a part-time judge is not constrained by Canon 5A(1) and is also permitted to practice law, there is no prohibition against the judge acting as legal counsel for the campaign.

Since the opinion here is based on the judge's part-time status, which exempts compliance with any of the activities present, there is no need to address the issue of partisan vs. nonpartisan races.

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

s/ Usha Jeffries Bridges
USHA JEFFRIES BRIDGES

s/ Keith M. Babcock
KEITH M. BABCOCK

May 15, 2020