

ADVISORY COMMITTEE
ON STANDARDS OF JUDICIAL CONDUCT

OPINION NO. 7 - 2024

RE: Propriety of an attorney/County Council member running for reelection also submitting his/her name for a circuit court judgeship.

FACTS

A practicing attorney also serves on County Council, and is currently running for reelection. The council election is a partisan race but the attorney is unopposed. The attorney (hereinafter “judicial candidate”) also wants to put his/her name in for consideration of a circuit court judgeship that will be available this year. The judicial candidate would thus simultaneously be judicial candidate (in prescreening) as well as a candidate for reelection to County Council. By the time the judicial prescreening report is published, the election for County Council will be over. The judicial candidate would not be campaigning or fundraising during the County Council race as there is no opposition candidate. The judicial candidate inquires into the propriety of submitting his/her name for the judgeship under these circumstances.

CONCLUSION

A judicial candidate may run for reelection and/or retain office on County Council during the judicial campaign.

OPINION

Canon 5A(1)(a) states that a judicial candidate shall not “act as a leader or hold an office in a political organization” unless otherwise permitted by the Canons. According to the Terminology section of the Code, a "Political organization" is “a political party or other group, the principal purpose of which is to further the election or appointment of candidates to political

office.” The Commentary to that Canon 5A(1)(a) states that that section does not “prohibit a candidate for elective judicial office from retaining during candidacy a public office such as county prosecutor, which is not ‘an office in a political organization.’”

We have not addressed this issue before. While the Code is not clear and explicit, we have concluded that service as a County Council member would be a public office, as opposed to a leader in a “political organization”¹ and according to the Commentary, holding a public office is not prohibited. Moreover, even if a County Council is construed as a public organization there is an exception that allows non-judicial candidates to retain an office in a political organization during their candidacy. Canon 5B(2)(b). There is no other prohibition in the Code of Judicial Conduct or other state law that prohibits a County Council member from becoming a candidate for judicial office.² Thus, the candidate can retain office and run for reelection as county council member while also submitting his/her name for a circuit court judgeship. However, should the candidate prevail in the judicial race, he or she would need to resign from County Council.

s/ Usha Jeffries Bridges
USHA JEFFRIES BRIDGES, CHAIR

s/ William H. Seals, Jr.
WILLIAM H. SEALS, JR.

s/ Ariail E. King
ARIAIL E. KING

July 18, 2024

¹ We made this determination because the primary purpose of County Council, as opposed to the term “Political organization” as defined by the Canons, is not to further the election of judges.

² In contrast, members of the General Assembly cannot seek judicial office until one year after leaving the General Assembly or one year after failing to file for reelection to the General Assembly. S.C. Code Ann. §2-19-70.