

ADVISORY COMMITTEE
ON STANDARDS OF JUDICIAL CONDUCT

OPINION NO. 9 - 2019

RE: Propriety of a retired circuit court judge writing a letter to the Governor recommending a retiring Chief Public Defender for an award (The Order of The Silver Crescent).

FACTS

The inquiring judge is a retired, but still active, circuit court judge. The county's Chief Public Defender ("CPD") is retiring and the inquiring judge has been asked to submit a letter recommending that the Governor award The Order of the Silver Crescent to the CPD. The inquiring judge has been personal friends with the CPD for over forty years, and the friendship began before the judge ascended to the bench and before the CPD occupied his current position. The two attend the same church, live in the same subdivision, and their spouses are friends. The judge would not be submitting the letter on judicial letterhead and would not reference the judge's judicial position.

CONCLUSION

A retired circuit court judge may provide a letter recommending a retiring Chief Public Defender for an award (The Order of The Silver Crescent).

OPINION

Canon 2B, Rule 501, SCACR states that a judge shall not "lend the prestige of judicial office to advance the private interests of others." However, the Commentary to that section provides:

Although a judge should be sensitive to the possible abuse of the prestige of office, a judge may, based on the judge’s personal knowledge, serve as a reference or provide a letter of recommendation.

Commentary, Canon 2B. We have previously allowed a judge to provide a similar recommendation. See, e.g., Opinion 16-2017 (Full-time municipal judge could submit a “letter of proof/verification” for a law enforcement officer seeking promotion). We have also issued an opinion in which we advised against a judge’s writing of a letter of recommendation for an award. See Opinion 15-1994.

In Opinion 15-1994, we advised against a judge submitting a recommendation for a Teacher of the Year candidate, finding that it was “akin to publicly endorsing a political candidate.” That opinion can be distinguished from the present situation. There are multiple candidates for Teacher of the Year, and only one candidate can win at the expense of the others. The award at issue here is not so limited as the CPD is not in competition with other candidates and, if the CPD is given the award, it does not preclude any other person from also receiving one. Furthermore, the letter of recommendation will be based on the judge’s personal knowledge. The judge has also indicated that the letter will not be on the judge’s letterhead, nor will it reference the judge’s current (retired) or previous (resident judge) judicial positions. Thus, the judge may provide a letter to the Governor recommending the CPD for an award.

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

s/ Usha Jeffries Bridges
USHA JEFFRIES BRIDGES

s/ Keith M. Babcock
KEITH M. BABCOCK

July 12, 2019