

Judicial Inquiry Commission

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The Judicial Inquiry Commission has considered your request for an opinion concerning participation by Judges in partisan political activities. Specifically we have considered the following questions:

- “1. Can a Judge solicit funds on behalf of a candidate for a non-judicial office from (a) his family and close friends (b) members of the public (c) members of the bar?
- “2. Can a Judge (a) serve as campaign manager in a locality for a candidate? (b) solicit votes for a candidate among his family and close friends? (d) make speeches at a political rally or other public gathering for a candidate? (e) solicit members of the bar to assist or work in the campaign of a candidate? (f) privately advise and assist in the campaign of a candidate?
- “3. Can a Judge contribute money or property to a candidate or his designated committee, and if so, is there any limit imposed by Canon 7 on the amount of money and property that may be contributed?
- “4. Can a Judge authorize his name to be used by a candidate for public office, and if so, to what extent?
- “5. Can a Judge procure advertising in the news media for a candidate and state in such advertisement that he is the sponsor thereof or that he paid for the same?”

You further ask that in considering these questions concerning Canon 7 of the Alabama Canons of Judicial Ethics, this Commission assume that

“...the candidate is seeking a non-judicial office, the Judge, himself, is not a candidate, the office being sought by the candidate is either a county, state, or federal office, and that the candidate will be seeking a party nomination and also, expects to be a party nominee or candidate in the general election and that the campaigns will be conducted in 1978 in both the Democratic primary and in the general election.”

Canon 7 of the Alabama Canons of Judicial Ethics is the canon addressed directly to the political conduct of judges, providing in pertinent part as follows:

“A. Political Conduct in General:

(1) A judge or a candidate for election to a judicial office should endeavor at all times to refrain from political activities inappropriate to the judicial office that he holds or seeks. It is desirable that a judge or a candidate for election to judicial office endeavor not to be involved in the internal workings of political organizations, engage in campaign activities in connection with a political candidate other than candidates for judicial offices and not be involved in political fund solicitations other than for himself. However, so long as judges are subject to nomination and election as candidates of a political party, it is realized that a judge or a candidate for election to a judicial office cannot divorce himself completely from political organizations and campaign activities which, indirectly or directly, may be involved in his election or re-election. Nevertheless, should a judge or a candidate for judicial position be directly or indirectly involved in the internal workings or campaign activities of a political organization, it is imperative that he conduct himself in a manner at all times to prevent any political considerations, entanglements or influences from ever becoming involved or from ever appearing to be involved in any judicial decision or in the judicial process.”

It is the opinion of this Commission that this canon sets forth the high standards of conduct to which the judges of this state should aspire in order to maintain the independence, impartiality and integrity of the judiciary of this state as mandated by Canon 1 and Canon 2. While Canon 7A(l) discourages but does not absolutely prohibit such political activities as involvement in the internal workings of political organizations; engaging in campaign activities in connection with a political candidate other than for judicial office and involvement in political funds solicitations, the canon mandates that judges should make every effort to refrain from political activities inappropriate to the judicial office which he holds. Thus, it is our opinion that this canon places a burden upon individual judges to carefully consider whether their participation in any of the above described activities under a given set of circumstances would violate either the letter or the spirit of Canon 7 or would violate any of the remaining canons, i.e., Canon 1 and 2. Whether such violations occur would depend on the facts of each particular case.

In making a decision as to the degree of the discouraged political participation in which he will engage, a judge must also keep in mind the mandate of Canon 7 that it is imperative not only that judges prevent political consideration, entanglements or influences from being involved in any judicial decision or in the judicial process but also that judges prevent even the appearance of such involvement. A judge should always exercise extreme caution so as to in no way involve or inject the prestige of his office into the furtherance of another's political campaign.

Based upon the foregoing discussion, we answer your inquiries.

1. It is desirable and strongly encouraged that a judge refrain from soliciting funds

on behalf of a political candidate. While such solicitation is not prohibited, it is the opinion of this Commission that it would be virtually impossible for a judge to solicit funds on behalf of another from either lawyers who practice within the jurisdiction of his court or litigants appearing before his court without conveying the appearance that political considerations, etc. may be involved in his judicial decisions or in the judicial process. Such solicitation could also lead to a violation of Canons 1 and 2. It would of course be easier for a judge to make such solicitations from either family or very close friends without violating either the letter or spirit of the Canons.

2. It is desirable and encouraged that a judge not engage in campaign activities in connection with a political candidate. Such discouraged, though not prohibited, activities include serving as a local campaign manager, soliciting votes of the general public, making speeches at a political rally or other public gathering, soliciting members of the bar to assist or work in the campaign of a candidate.

Canon 7 neither discourages nor prohibits the private expression of opinion by a judge on a political subject. Thus, privately advising or assisting in a political campaign would, under most circumstances in no way violate the spirit of the Canons.

3. Canon 7 neither discourages nor prohibits contributions of either property or money to a candidate or his designated committee. However, in making such contributions, a judge should exercise caution so that the method or manner in which the contribution is made does not violate the spirit of the Canons.

4. A judge authorizing his name to be used by a candidate for public office is undesirable and discouraged. This is especially so should the judge authorize the candidate to identify him by his official position.

5. It is undesirable and strongly discouraged that a judge procure advertising in the news media for a candidate and to state in such advertisement that he is the sponsor thereof or that he paid for the advertisement. Again, this is especially true as to the use of the judge's official title in identifying him as the sponsor of the advertisement.

We would again emphasize that a judge who becomes involved in any political campaign must exercise extreme caution to maintain the dignity of his office, to uphold the independence, integrity and impartiality of the judiciary, and to refrain from interjecting the prestige of his office into the campaign.