

Judicial Inquiry Commission

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October 3, 1997

The Judicial Inquiry Commission has considered your request for an opinion concerning whether a part-time judge on the Court of the Judiciary is covered by the Alabama Canons of Judicial Ethics and, more specifically whether members of the Court of the Judiciary are prohibited from making political contributions or soliciting others for contributions to candidates or political parties.

It is the opinion of the Commission that members of the Court of the Judiciary who serve in such positions as part-time judges are covered by the Alabama Canons of Judicial Ethics as set out in the compliance section of the Canons. The compliance section of the canons makes no differentiation between judges who receive remuneration for their services and those who do not. Part-time judges are covered by Canon 7 regulating the political activities of judges. However, Canon 7 does not prohibit a judge from soliciting funds for candidates other than himself nor from making contributions to either other candidates or political parties.

The pertinent portion of the compliance section of the Canons is as follows:

Judges whose duties are not exclusively judicial or who do not serve on a full-time basis cannot be subjected to a strict, literal compliance with the Canons of Ethics.

- A. PART-TIME JUDGE. A part-time judge is a judge who serves on a continuing basis, but is permitted by law to devote time to some other profession or occupation and whose compensation for that reason is less than that of a full-time judge. A part-time judge:
 - (1) Is not required to comply with Canon 5D, E, F, and G and Canon 6C;
 - (2) Should not act as a lawyer in a proceeding in which he has served as a judge or in any other proceeding related thereto.

- B. JUDGE PRO TEMPORE. A judge pro tempore is a person who is appointed to act temporarily as a judge.
 - (1) While acting as such, a judge pro tempore is not required to comply with Canon 5C(3), D, E, F, and G, and Canon 6C.

We note that neither part-time judges nor judges pro tempore are excused from any of the provisions of Canons 1,2,3,4, and 7, or from portions of Canons 5 and 6. Canon 7 is the canon regulating political conduct. That Canon as last amended by the Supreme Court of Alabama discourages but does not prohibit participation in political campaigns including the soliciting or making of campaign contributions.

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

Emphasis supplied. The Canon further provides as to campaign financing, that a candidate shall not solicit personal campaign contributions. Canon 7B(4)(a).

Based on these provisions, it is the opinion of the Commission that participation by judges in political campaigns other than their own is discouraged. However, such conduct, including the solicitation and donation of campaign contributions is not prohibited except that a judge, who is a candidate for judicial office, may not solicit contributions on his own behalf.

Yours very truly,

JUDICIAL INQUIRY COMMISSION