

## Judicial Ethics Committee Advisory Opinion 26-01

March 6, 2026

### QUESTION:

The Judicial Ethics Committee has been asked for an opinion concerning whether a continuing part-time judge or a pro tempore part-time judge may function as a legal analyst providing “gavel to gavel” coverage of pending cases for a local television news station.

### ANSWER:

No. While “a judge may make public statements in the course of official duties, may explain court procedures, and may comment on any proceeding in which the judge is a litigant in a personal capacity,” *see* RJC 2.10(D), a judge, whether full-time or part-time, “shall not make any public statement that might reasonably be expected to affect the outcome or impair the fairness of a matter pending or impending *in any court*, or make any nonpublic statement that might substantially interfere with a fair trial or hearing.” RJC 2.10(A) (emphasis added).

### DISCUSSION

Though all judges are subject to the Code of Judicial Conduct (“the Code”), the designation or definition of the judge can dictate which portions of the Code apply to which judges and when the Code does or does not apply to a judge. Therefore, to fully address the question presented, we must first review the definitions provided by the Code for a part-time judge and a pro tempore part-time judge as well as review which parts of the Code are applicable to those persons and when they are applicable.

Pursuant to the Code, “a judge who serves repeatedly on a part-time basis by election or under a continuing appointment is a ‘continuing part-time judge.’ These include, but are not limited to, part-time judges, magistrates, referees, and judicial commissioners in the general sessions, juvenile, municipal and other courts.” RJC, Application, Section III. Additionally, the Code notes that a continuing part-time judge “is not required to comply at any time with RJC’s 3.4 (Appointments to Governmental Positions), 3.8(A) (Appointments to Fiduciary Positions), 3.9 (Service as Arbitrator or Mediator), 3.10 (Practice of Law), 3.11(B) (Financial, Business, or Remunerative Activities), and 3.15 (Reporting Requirements).” *Id.*

The application section of the Code then defines a pro-tempore part-time judge as “a judge who serves or expects to serve once or only sporadically on a part-time basis under a separate appointment for each period of service or for each case heard.” RJC, Application, Section V. A pro-tempore part-time judge is not required to comply:

(A) except while serving as a judge, with RJC’s 2.4 (External Influences on Judicial Conduct), 3.2 (Appearances before Governmental Bodies and

Consultation with Government Officials), and 4.1 (Political and Campaign Activities of Judges and Judicial Candidates in General) (A)(1) through (7); or

(B) at any time with RJC 3.4 (Appointments to Governmental Positions), 3.8(A) (Appointments to Fiduciary Positions), 3.9 (Service as Arbitrator or Mediator), 3.10 (Practice of Law), 3.11(B) (Financial, Business, or Remunerative Activities), and 3.15 (Reporting Requirements).

*Id.* It is clear from reviewing both sections that neither a part-time judge nor a pro tempore part-time judge is ever excused from abiding by RJC 2.10.

As noted *supra*, RJC 2.10(A) states that a judge “shall not make any public statement that might reasonably be expected to affect the outcome or impair the fairness of a matter pending or impending in any court or make any nonpublic statement that might substantially interfere with a fair trial or hearing.” Unlike section (B) of the rule which prohibits judges from making promises, pledges, or commitments *concerning issues which might come before that judge*, section (A) prohibits certain public or nonpublic statements concerning matters pending or impending *in any court*. The first comment to the Rule explains its purpose: “This Rule’s restrictions on judicial speech are essential to the maintenance of the independence, integrity, and impartiality of the judiciary.” RJC 2.10, Comment 1.

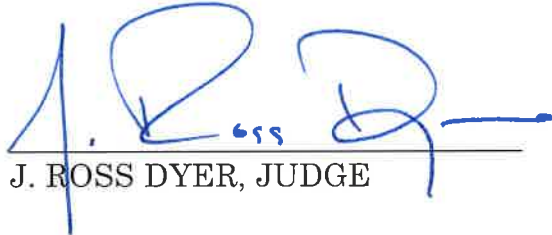
The question posed is whether a part-time judge can function as a “legal analyst” for a local news channel and comment on ongoing legal matters. The opinion request provides the example that the judge/“legal analyst” would participate in “gavel to gavel” coverage of televised criminal trials and take questions from viewers. The opinion request does not provide specific examples of the types of questions asked of the judge/“legal analyst” or the answers given. But it is not difficult to imagine commentary that would violate section (A). For example, if a part-time judge were to comment on a presiding judge’s ruling, question a party’s trial strategy, express doubt about a witness’s testimony, or speculate about why a particular member of the jury was selected, those public statements “might reasonably be expected to affect the outcome or impair the fairness” of the pending matter.

As noted by the requestor, neither the Code nor past opinions of this Committee completely prohibit a judge from discussing the law or educating the public. For example, the first comment to RCJ 3.1, which concerns extrajudicial activities, states that “[j]udges are uniquely qualified to engage in extrajudicial activities that concern the law, the legal system, and the administration of justice, such as by speaking, writing, teaching, or participating in scholarly research projects. RJC 3.1, Comment 1. However, both the Code and our prior opinions contemplate judges speaking generally about the law or the judicial system, not providing commentary on a pending case. One example noted by the requestor would be a judge with domestic jurisdiction appearing on a local weekly morning show to explain how divorce or child custody proceedings work in Tennessee. So long as the judge is doing

nothing more than explaining how the law operates generally, the judge will not be in violation of the rule. However, should someone call in to the show and start discussing their case or even posing a “hypothetical case,”<sup>1</sup> the judge must refrain from commenting to stay compliant with the Code.<sup>2</sup>

Starting with the preamble and weaving its way through the Code, one message is clear—judges are called to protect the integrity, independence, and impartiality of the judiciary. Allowing a judge to comment on how a case should proceed, how a case is handled, and/or how a case was resolved tears at that message and allows both the public and the judiciary to question our judicial system and could reasonably affect the outcome or impair the fairness of a pending or impending matter. Accordingly, the Code appropriately places a bright-line restriction on judges, regardless of their designation, from commenting on pending or impending matters in any court. Based on the foregoing reasoning, it is the opinion of this Committee that RJC 2.10(A) prohibits a part-time judge from functioning as a legal analyst as described in the request.

FOR THE COMMITTEE:



J. ROSS DYER, JUDGE

CONCUR:

Judge Beth Boniface  
Judge Timothy E. Irwin  
Judge Betty Thomas Moore  
Judge Jeff Parham  
Judge Sherry Paty

Judge Angelita Blackshear Dalton, Abstained

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<sup>1</sup> Though a member of the public may couch a question as a hypothetical or a “what if” scenario, such questions may arise from a real-life situation from a pending or impending matter.

<sup>2</sup> The requestor of the opinion also pointed to situations in which judges from other jurisdictions gave televised interviews during which they discussed recent cases before those courts. The Tennessee Code of Judicial Conduct applies only to judges within the State of Tennessee. We, therefore, make no comment on the codes of other jurisdictions.