

JUDICIAL ETHICS COMMITTEE OPINION NO. 00-04

Inquiry has been presented regarding whether the closing of all divisions of the Shelby County Courts of General Sessions during established court holidays constitutes an ethical violation of any provisions of the Code of Judicial Conduct.¹ For calendar year 2001, the established court holidays will include regular holidays, an MBA Bench/Bar conference, the Tennessee General Sessions Judges' Conference and December 17, 2001 through December 31, 2001. The request specifically questions whether such closings, in light of Rule 11, § VII(b) of the Rules of the Tennessee Supreme Court, constitute a violation of the Code of Judicial Conduct.

Tennessee Supreme Court Rule 11, § VII(b) provides as follows:

B. *Courts to be Open.* Art. I, § 17 of the Tennessee Constitution provides that “[a]ll courts shall be open; and every man for an injury ... shall have remedy by due course of law, and right and justice administered without sale, denial, or delay.” In furtherance of this constitutional mandate, it is the policy of the Tennessee Judicial Department that all courts of this state shall be open and available for the transaction of business except on Saturdays, Sundays, and legal holidays, and during meetings of the Tennessee Judicial Conference required by law. This rule sets forth the procedure which shall be followed when a judge of a trial court of record is absent.

The primary focus of the request is whether the projected court closures will effect compliance with the law. Tennessee Supreme Court Rule 10, Canon 2 (A) provides that “[a] judge shall respect and comply with the law and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary”. The instant request essentially seeks direction from the Committee as to whether the specified court closings in connection with established court holidays are violative of the open courts section of the Tennessee Constitution or the provisions of Supreme Court Rule 11, § VII(b). Determinative of this issue is an interpretation of the term “legal holidays”.

The Judicial Ethics Committee was created by the Tennessee Supreme Court to issue formal ethics opinions on the proper professional conduct of judges. The Committee provides guidance to judges as to their ethical actions². The Judicial Ethics Committee maintains no authority beyond that delegated by the Tennessee Supreme Court. Consequently, the Committee may not

¹Rule 10, Tennessee Supreme Court Rules.

²See Annual Report of the Tennessee Judiciary.

render advisory opinions relative to whether certain actions and/or conduct of judges are in violation of Tennessee law. Inasmuch, the Committee lacks authority to interpret Supreme Court rules since the Supreme Court as the promulgator of its rules, is the rules' primary arbiter, Petition of Gant, 937 S.W.2d 842 (1996).

The Committee concludes that in so far as the request *sub judice* seeks legal advice regarding whether specified court closings violate applicable provisions of the Tennessee Constitution, an appropriate opinion request should be made to the respective county attorney or the Tennessee Attorney General. To the extent that an interpretation of Rule 11 is necessary, petition to the Supreme Court should be made.

For the Committee:

Thomas R. Frierson, II, Chancellor

CONCUR:

HAYES
WAGGONER
BLACKBURN
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