

JUDICIAL ETHICS COMMITTEE

ADVISORY OPINION NO. 07-02

May 3, 2007

The Judicial Ethics Committee has been asked the following question:

May part-time Municipal Court Judges be precluded from representing criminal defendants in state court where police officers from the municipality are expected to be called as material witnesses; and further where one of the officers is alleged to be a victim?

In Advisory Opinion No. 07-01, we responded to the original question in this regard, concluding that “there is no ethical impropriety in a part-time municipal court judge’s, with municipal ordinance jurisdiction only, practicing criminal law in General Sessions, Criminal, and Circuit Courts in the same judicial circuit in which the part-time judge holds court,” relying primarily upon the Code’s explanation as to its application, which follows Canon 5. We now have been asked whether our response is the same if the alleged victim in a criminal matter is a law enforcement officer.

We conclude that the alleged victim’s employment as a police officer would not prohibit the part-time municipal court judge’s representing the defendant in a criminal matter. Rather, in such a situation, the part-time judge, then acting as an attorney, must look to the Rules of Professional Conduct, Tenn. Sup. Ct. R. 8, in determining whether the nature of the alleged victim’s employment would prohibit the representation. It is beyond the charge of this Committee to make such a determination.

FOR THE COMMITTEE:

ALAN E. GLENN, JUDGE

CONCUR:

CHANCELLOR THOMAS R. FRIERSON, II
JUDGE CHERYL A. BLACKBURN
JUDGE JAMES F. RUSSELL
JUDGE BETTY THOMAS MOORE
JUDGE PAUL B. PLANT