

ETHICS OPINION NO. 99-2

A request has been submitted to the Committee for an opinion regarding the propriety of certain political activity by a part-time municipal court judge. The judge has been requested by the “Alexander for President” campaign staff to be a co-chairperson for the Maury County local campaign. For this part-time municipal court judge with municipal ordinance violation jurisdiction only, the provisions of Canon 5A(1) elucidating the general requirements for political activity are inapplicable.¹ Notwithstanding this exclusion, the Committee opines that the anticipated political activity would be inappropriate by virtue of other provisions of the Tennessee Code of Judicial Conduct.

A judge must avoid even the appearance of impropriety in each of the judge’s activities and he or she shall at all times promote public confidence in the impartiality of the judiciary, Canon 2(A).² Further, a judge must not allow political relationships to influence the judge’s judicial conduct or judgment and he or she shall not lend the prestige of judicial office to advance the private interests of others, Canon 2(B).

General Code restrictions upon a judge’s non-judicial endeavors provide valuable guidance for appropriate political conduct despite the inapplicability of Canon 5(A)(1) in a particular circumstance. With reference to extra-judicial activities, a judge must conduct all such activities so that they do not cast reasonable doubt upon the judge’s capacity to act impartially as a judge, Canon 4(A)(1). Similarly, a judge must proceed within defined parameters regarding governmental, civic and/or charitable activities, Canon 4(C). Though a judge may assist in planning fund-raising or in encouraging membership efforts for organizations devoted to the improvement of the law, the legal system or the administration of justice or nonprofit educational, religious, charitable, fraternal or civic organizations, he or she as an officer, director, trustee or non-legal advisor of such an organization may not personally participate in solicitation

¹ See, e.g., application of the Code of Judicial Conduct, § 5(A)(1), Tennessee Supreme Court Rule 10.

² The appropriate conduct of a judge is being provided in pertinent part as follows:
A judge must respect to be the subject of constant public scrutiny. A judge must therefore accept responsibility for the judge’s conduct that is subject to public scrutiny by the ordinary citizen and shall do so freely and willingly.

of funds or membership, Canon 4(C)(3)(b).³

Political campaigns inherently and necessarily include personal solicitation of campaign funds, active membership enrollment efforts and related adversarial conduct. These activities by a judge as chairperson for another candidate's campaign might reasonably be viewed as burdensome to judicial office or coercive by the ordinary citizen. Inasmuch, the judge's personal solicitation of funds and support for the candidate would clearly involve the risk that persons solicited would feel obligated to respond favorably to the solicitor. Such political conduct would manifest an appearance of the judge lending the prestige of judicial office to advance the private interests of another.

For these reasons, the Committee concludes that a part-time, municipal court judge, with municipal ordinance violation jurisdiction only, is restricted under the Code of Judicial Conduct from serving as a chairperson of a campaign for election of another candidate for public office.

FOR THE COMMITTEE:

Thomas R. Frierson, II, Chancellor

CONCUR:

³ The respective duties of a judge are set forth as follows:
A judge shall not solicit or directly or indirectly encourage or benefit others for an organization devoted to the improvement of the law, the legal system, or the administration of justice or a nonprofit educational, religious, charitable, fraternal, or civic organization or help in the solicitation or support thereof by the judge or another person, but he or she shall not be prohibited from soliciting or benefiting from an organization and solicitation of a person benefiting thereby for the degree that the person solicited will feel obligated to respond favorably to the solicitor if the solicitor is in a position of influence or control.