



COMMONWEALTH OF KENTUCKY

ETHICS COMMITTEE OF THE KENTUCKY JUDICIARY

403 WAPPING STREET
FRANKFORT, KENTUCKY 40601

ANTHONY M. WILHOIT
Court of Appeals

THOMAS J. KNOPF
District Court

JOSEPH H. ECKERT
Circuit Court

B. M. WESTBERRY, CHAIRMAN
Attorney

UHEL O. BARRICKMAN
Attorney

Judicial Ethics Opinion
JE-66

Formal

Question #1: May a judicial candidate use public officials (either current or past) as co-chairpersons for his campaign? Can the same be used as endorsers in newspapers or other advertisements concerning his candidacy?

Answer #1: Judges cannot endorse candidates for public office. Therefore judges cannot be used as co-chairpersons for a campaign. Endorsements by current public officials who run for office on a partisan ticket would violate the policy of nonpartisan elections in judicial campaigns. Former judges and past public officials are another matter. Canon 7A(1)(b); Judicial Ethics Opinions JE-6, JE-30 and JE-45.

Question #2: Is it all right for a judicial candidate to run campaign advertisements even before he files for office?

Answer #2: Nothing in the Code prohibits judicial candidates from running political advertisements before filing for office.

Question #3: May Judicial Candidates solicit endorsements from attorneys and then use them in advertising?

Answer #3: This is specifically permitted by Canon 7B(2). See also Judicial Ethics Opinion JE-45.

Question #4: May a judicial candidate advertise that he has been endorsed by private individuals using their work affiliation.

Answer #4: A majority of the Committee believed that this practice was permissible as long as advertising was specific that only the individual was endorsing the candidate and not the entire organization.

Question #5: May a judicial candidate send a memorandum to his associates advising them of his campaign plans? Included would be a biographical sketch and a questionnaire for them to complete. Are there any problems with sending any of these materials?

Answer #5: The Committee has a policy against endorsing campaign literature. Specific questions about campaign literature will be answered, but the Committee believes it should avoid reviewing a candidate's campaign literature as a whole.

Question #6: Once a candidate decides to run is he prohibited from contributing to organizations such as the "County Attorney's Support Fund" or does the prohibition begin when he files for office?

Answer #6: Once a person begins advertising and has a treasurer he is a judicial candidate. From that point on he should no longer contribute to the County Attorney's Support Fund.

Question #7: May a Judicial candidate accept contributions whenever they are offered, even if outside the time frame for soliciting?

Answer #7: Yes. This is a proper interpretation of Judicial Ethics Opinion JE-42.

I. A JUDICIAL CANDIDATE MAY NOT USE
CURRENT PUBLIC OFFICIALS AS ENDORSERS
OR AS CO-CHAIRPERSONS OF HIS CAMPAIGN.
PAST PUBLIC OFFICIALS ARE ANOTHER MATTER.

Judges cannot endorse candidates for public office, therefore judges cannot be co-chairpersons of a judicial campaign. See Canon 7A(1)(b) and Judicial Ethics Opinion JE-45.

In Judicial Ethics Opinion JE-6, the Committee held that judicial candidates may not slate themselves together as a ticket. The reason is that such slating amounts to an endorsement of the other candidates. In Judicial Ethics Opinion JE-30, the Committee ruled that a judicial candidate may not appoint the local Commonwealth Attorney as chairman of his campaign for the same reason. In addition, the Commonwealth Attorney runs for office under a party label. Therefore, a majority of the Committee felt that judicial candidate may not appoint current public officials as co-chairperson of his campaign.

Past public officials are another matter. Once a person is no longer a judge he is free to involve himself in partisan politics. Once a person is no longer holding or running for any public office, the judicial candidate cannot be accused of endorsing him. Therefore, the use of past public officials as chairpersons of his campaign is permitted.

II. A JUDICIAL CANDIDATE MAY RUN
CAMPAIGN ADVERTISEMENTS BEFORE HE
FILES FOR OFFICE.

Nothing in the Code specifically covers this issue. Running a campaign advertisement is certainly campaigning. In Norris v. United States, 86 F.2d 379, 382 (1936), "Campaign" was given this definition:

The word means, when applied to a personal political candidacy, all of the things and necessary legal and factual acts done by the candidate and his adherents, in an effort to obtain a majority, or plurality of the votes to be cast in any election for a public office.

It must be remembered that judicial candidates are not permitted to have their Committees raise funds for any purpose prior to 120 days before the primary election. Canon 7B(2). Judges, however, are considered to be candidates for reelection during their entire term of office. Canon 7A(2). If a judge may campaign for reelection during his entire term of office, his opponent should have the same right.

III. JUDICIAL CANDIDATES MAY SOLICIT
ENDORSEMENTS FROM ATTORNEYS AND
THEN USE THEM IN CAMPAIGN ADVERTISING.

By Canon 7B(2), judges are specifically permitted to solicit public statements of support from lawyers. See also Judicial Ethics Opinion JE-45. In Judicial Ethics Opinion JE-38 the Committee held that judges may advertise the fact that their candidacy has been endorsed by labor Unions, fraternal groups, etc. Therefore, a judge may advertise that certain lawyers have endorsed his campaign.

IV. A JUDICIAL CANDIDATE MAY
ADVERTISE THAT HE HAS BEEN ENDORSED
BY PRIVATE INDIVIDUALS USING THEIR
WORK AFFILIATION.

A majority of the Ethics Committee members believed that permitting judicial candidates to advertise their endorsements by private individuals using their work affiliation was permissible so long as the advertisement clearly indicated that the endorsement came from the individual only and not from his or her entire organization.

V. THE JUDICIAL ETHICS COMMITTEE
HAS A POLICY AGAINST ENDORSING
A CANDIDATE'S CAMPAIGN LITERATURE.

In his letter, the judicial candidate asked if he could send a memorandum to his associates advertising them of his campaign plans. Included would be a biographical sketch and a questionnaire for them to complete. He then enclosed these materials for our review.

The Judicial Ethics Committee has a policy against endorsing campaign literature. Specific questions about a campaign will be answered, but the Committee believes it should avoid reviewing a candidate's campaign literature as a whole.

VI. ONCE A JUDICIAL CANDIDATE
DECIDES TO RUN FOR OFFICE HE IS
PROHIBITED FROM CONTRIBUTING TO
ORGANIZATIONS SUCH AS THE "COUNTY
ATTORNEY'S SUPPORT FUND."

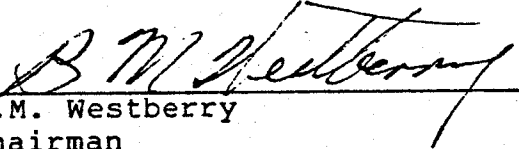
Judges and judicial candidates are prohibited by Canon 7A(1)(c) from making contributions to political organizations. This question, rephrased is actually, when does a person become a candidate so as to be bound by Canon 7? This question is important because the judicial candidate has indicated to us that he may well begin his campaign prior to filing for office.

A majority of the Committee members believed that when a person hires a treasurer and distributes campaign literature, he has become a candidate and is covered by Canon 7. In other words, a person is covered by Canon 7 from the time he begins his judicial campaign. For definition of "campaign" see our answer to question II.

II. A JUDICIAL CANDIDATE MAY
ACCEPT CONTRIBUTIONS WHENEVER THEY
ARE OFFERED, EVEN IF OUTSIDE THE
TIME FRAME FOR SOLICITING.

A judicial candidate may accept contributions whenever they are offered, even if outside the time frame for soliciting. This is a proper interpretation of Judicial Ethics Opinion JE-42. But he may not solicit contributions prior to the 120 day period.

Other questions asked by the candidate were legal and not ethical questions.


B.M. Westberry
Chairman
Judicial Ethics Committee