

POLITICAL ACTIVITY Opinion No. 2 (1975)

QUESTION: May a Texas judge privately introduce candidates for judicial office to his friends and recommend that such friends vote for such candidates?

ANSWER: It is the opinion of the Committee on Judicial Ethics that a Texas judge would not violate the Code of Judicial Conduct by privately introducing candidates for judicial office to his friends and recommending that such friends vote for such candidates.

POLITICAL ACTIVITIES Opinion No. 13 (1976)

QUESTION: May a district judge introduce a candidate for the state Legislature to his personal friends and recommend that such friends vote for such candidate?

ANSWER: The Committee on Judicial Ethics is of the opinion that the question should be answered in the affirmative. In Opinion Number 2 this Committee held that a Texas judge would not violate the Code of Judicial Conduct by privately introducing candidates for judicial office to his friends and recommending that such friends vote for such candidates. The Committee now reaffirms that opinion and extends its scope so that henceforth it will be applicable to all candidates for public office.

ENDORSEMENT OF POLITICAL CANDIDATES Opinion No. 130 (1989)

QUESTION: A judge brings to the attention of this Committee the Texas Attorney General's March 10, 1989 Opinion LO-89-21 which states that Canons 2 and 7 do not prohibit a judge from endorsing a candidate, and the judge submits this question: May a judge endorse a candidate for public office?

ANSWER: No. The Judicial Ethics Committee concludes again that a judge's public endorsement of a candidate for public office violates the Code of Judicial Conduct because such an endorsement tends to diminish public confidence in the independence and impartiality of the judiciary and may give the appearance of involvement in partisan interests and of judicial concern about public clamor or criticism, and because such an endorsement of necessity involves the use of the prestige of the judge and the prestige of his office. See Canons 1, 2A, 2B, and 3A(1), and Judicial Ethics Committee Opinions No. 73, 92, and 100. The Committee has considered the Attorney General's Opinion and the provisions of the amended Code adopted in 1987, and the Committee is not persuaded by the Attorney General's conclusion that, in the Canon 2B provision that a judge should not lend the prestige of office to advance the private interests of others, the words

"private interests" do not include candidacy. The committee reaffirms its Opinion No. 73, and, by a unanimous vote, respectfully recommends that the Supreme Court of Texas amend Canon 7* of the Texas Code of Judicial Conduct by adding to Canon 7* the following provisions from proposed Canon 5A of the May 1, 1989 Draft Revisions to the American Bar Association Code of Judicial Conduct: "A judge or a candidate for election or appointment to judicial office shall not make speeches for a political organization or candidate or publicly endorse a candidate for public office." [Proposed ABA Canon 5A(1)(b)] "A judge holding an office filled by public election between competing candidates, or a candidate for such office, may, only insofar as permitted by law, attend political gatherings, speak to such gatherings on his or her own behalf when a candidate for election, identify himself or herself as a member of a political party, and contribute to a political party or organization." [Proposed ABA Canon 5A(3)] _____

*Now see Canon 5.

CAMPAIGN BUMPER STICKERS ON JUDGES' VEHICLES Opinion No. 136 (1990)

QUESTION: May a judge display on the judge's vehicle a bumper sticker supporting a political candidate?

ANSWER: No. For the reasons stated in Opinion No. 130 a judge's public endorsement of a candidate for public office violates the Code of Judicial Conduct. After Opinion 130 was issued, the Texas Supreme Court amended Canon 7(3)* so that it now expressly prohibits the public use of a judge's name endorsing another candidate. The Committee concludes that a judge displaying such a bumper sticker would also violate at least the spirit of this new Canon 7(3)* provision, because a judge cannot realistically separate the prestige of judicial office from the judge's personal affairs. See Opinion No. 73.

CAMPAIGNING FOR OTHER CANDIDATES Opinion No. 170 (1994)

QUESTIONS: 1. May a judge of a district, county or J.P. court running for reelection or candidate for any such office hand out campaign material for candidates of one's own political party along with one's material and recommend to people that they vote for these candidates?

2. May a judge of a district, county, or J.P. court running for reelection or candidate for any such office hand out campaign material for candidates of one's own political party along with one's material without making any endorsement but with the request that the voters consider these other candidates?

3. May a judge of a district, county, or J.P. court running for reelection or candidate for any such office hand out a campaign piece produced and paid for by one's own political party that contains an advertisement for such judge along with advertisements for the other candidates?

4. For any of the activities described above which are determined to violate the new code, would it be permissible for one's spouse to engage in such action?

ANSWERS: It is the opinion of the Committee that the first three questions are prohibited by Canon 5(3) of the Code of Judicial Conduct which provides in the first sentence, "A judge or judicial candidate shall not authorize the public use of his own name endorsing another candidate for public office except that either may indicate support for a political party."

Public activity by handing out campaign material for another candidate by a judge or candidate for judge as set out in Questions 1 through 3 would be a public endorsement. Articulating a "recommendation" as set out in Question 1 or by asking "consideration" as set out in Question 2 would merely be another form of public endorsement.

Question 3, although it does not involve articulating support for another, still involves an overt act of personally handing out campaign material for another candidate and would be a public endorsement. Opinion No. 100 concluded that joint campaign activity by two judge candidates would violate the Canon 2 prohibition against lending the prestige of judicial office to advance the "private interests" include candidacy. See also Opinions No. 73, 92, 136, and 145.

Question 4 involves the conduct of a spouse of a judge. The Code does not attempt to regulate the activities of a judge's spouse so this conduct would not be prohibited.