

Advisory Committee on the Code of Judicial Conduct

Hon. Frank H. Allen, Jr., Chairman
Hon. Marie A. Baca
Hon. James J. Wechsler
Prof. William MacPherson

September 10, 2002

Re: Judicial Advisory Opinion No.02-05

Dear:

In your letter to this committee you have explained that you are the democratic-nominee for Magistrate Judge without opposition in the general election. As the nominee you have been invited to participate in the _____ DWI Program Advisory Council. You state that you have become concerned that your attendance and participation at the meeting may violate the Code of Judicial Conduct.

The information you furnished to the committee about the _____ DWI Program Advisory Council indicates that the Council is pro law enforcement, supportive of MADD and other organizations such as the National Institute of Drug Abuse and Dare. The Council also sponsors "trackers" to monitor court proceedings in DWI cases.

Rule 21-500 provides as follows:

A. Extra-judicial activities in general. A judge shall conduct all of the judges extra-judicial activities so that they do not:

(1) cast doubt on the judge's capacity to act impartially as a judge:

Also Rule 21-500 C (3)(a)(i) which provides as follows:

(a) A judge shall not serve as an officer, director, trustee or non-legal advisor if it is likely that the organization:

(i) will be engaged in proceedings that would ordinarily come before the judge; ...

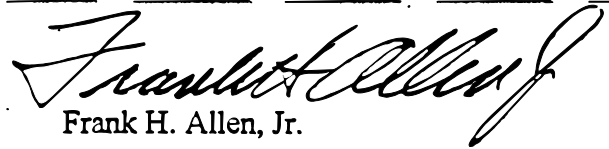
As an example of the organizations referred to in Paragraph C (3)(a) that a judge shall not participate in are the boards of legal aid organizations that make policy decisions that may have political significance or imply commitment to causes that may come before the court for adjudication.

The specific question that you have asked this committee is answered in Judicial Conduct and Ethics, Section 9.11 Adverse Reflection on Impartiality.

An organization need not be racist or vitriolic, however, in order to give the appearance of partiality. Membership on the board of directors of a legal aid society might convey the impression that a judge was predisposed in favor of its lawyers, and membership in an "antishiplifting" organization or in Mothers Against Drunk Drivers would call into question a judge's ability to preside fairly over theft or drunk-driving prosecutions. Thus, judges should avoid membership in even the most praiseworthy and noncontroversial organizations which espouse, or are dedicated to a particular legal philosophy or position.

It is therefore our opinion that participation in the _____ DWI Program Advisory Council by a Magistrate Judge would reflect adversely on the judges impartiality and therefore would be in violation of the Code of Judicial Conduct.

Sincerely,



Frank H. Allen, Jr.

Chairperson

Judicial Advisory Committee

FHA/mah