

Advisory Committee on the Code of Judicial Conduct

Hon. Frank H. Allen, Jr. Chairman
Hon. Thomas A. Donnelly
Prof. William T. MacPhearson, Jr.
Hon. Marie A. Baca

June 24, 1996

Honorable

Re: Judicial Advisory Opinion No. 96-07

Dear Judge

This opinion is in response to your inquiry regarding whether the Code of Judicial Conduct prohibits your attendance at the Republican National Convention as an alternate delegate from your congressional district. Based on our review of the Code of Judicial Conduct, promulgated by the New Mexico Supreme Court, we conclude that the provisions of Rule 21- 700(A)(2) and (A)(3) address and answer your inquiry.

Rule 21- 700(A)(2) states:

- (2) A judge may, unless and except as prohibited by law:
 - (a) purchase tickets for and attend political gatherings;
 - (b) identify himself or herself as a member of a political party ...; and
 - (c) contribute to a political organization.

Rule 21- 700(A)(3) states:

- (3) A judge shall not:
 - (a) act as a leader or hold an office in a political organization ... [Emphasis added.]

The term "political gathering" as used in Rule 21- 700(A)(2)(a), we think clearly applies to a state or national convention of a political party. Thus, merely attending the Republican National Convention is permitted under Rule 21- 700(A)(2)(a).

Rule 21-700(F) defines the term “political organization.” This provision states:

As used in this rule “political organization” means a political party or other group, the principal purpose of which is to further the election or appointment of candidates to political office.

This definition of “political organization” embraces all political parties. Thus, the dispositive issue in this matter is whether your service as an alternate delegate at the Republican National Convention would constitute acting “as a leader” of the Republican Party. In re Blauvelt, 801 P.2d 235 (Wash.1990) (en banc) is instructive as to this question.

In Blauvelt, the Washington Supreme Court interpreted Canon 7(A)(1)(a) of the Code of Judicial Conduct and held that a municipal judge’s participation as a delegate at a Democratic county convention constituted “acting as a leader” in a political organization. The court further stated:

Party members gave Judge Blauvelt their proxy to vote as he saw fit in his best judgment. While he did not have power over the party, he did control that proxy and wield influence at the party convention. It is clear that Judge Blauvelt was acting as a leader when he served as a delegate to the county convention.

Id., 801 P.2d at 238.

While the court in Blauvelt interpreted the language of Canon 7 of the 1972 Code of Judicial Conduct adopted by the Supreme Court of Washington, the particular language that was examined by the court is virtually identical to that in Rule 21-700(A)(3)(a) adopted by the New Mexico Supreme Court.

We believe that, although you would be acting as an alternate delegate, rather than as a delegate, the rationale in Blauvelt is applicable to your inquiry. The party members give their proxy to both the convention delegates and their alternates, and both have the responsibility to act on behalf of the political organization’s party members. In addition, alternate delegates are in a position to wield influence at the convention. As such, we conclude that Rule 21-700(A)(3)(a) precludes a judge from acting as a delegate or serving as an alternate delegate at a national political convention. Nothing in the Judicial Code, however, precludes a judge from attending a political convention when acting in a non-official capacity.

Yours very truly,

Frank H. Allen, Jr.
Chairman, Judicial Advisory Committee