



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

February 20, 1998

Judicial Advisory Opinion 98-01

Dear

You have requested an opinion from this committee whether it is a violation of the Code of Judicial Conduct for a non incumbent judicial candidate to allow the use of his or her name to solicit funds for a nonprofit charitable organization.

You have been a member of the board of this organization for several years prior to your decision to become a candidate for district judge. The nonprofit charitable organization wishes to use your name and a picture in a brochure which is used to solicit funds. There is to be no mention of your judicial candidacy in the brochure.

The use of a judge's name for fund raising or membership solicitation for a nonprofit charitable organization is prohibited by Rule 21-500(C) (3) (b) (iv). "A judge shall not use or permit the use of the prestige of judicial office for fund-raising or membership solicitation."

Rule 21-901(A) provides that all candidates for judicial office shall comply with the provisions of the Code except as provided in this rule.

The specific rule which applies to violations of any of the rules of the Code by candidates for judicial office is Rule 21-900(B) violations by candidates for judicial office which states:

All candidates for judicial office shall comply with Rules 21- 700 [Elections and political activity], 21-800 [Campaign fund-raising], 21-900 [Violations] and 21-901 [Applicability] of the Code of Judicial Conduct. ***

[Bracketed descriptions added]

Nowhere in the specific rule concerning candidates is there any mention of Rule 21-500. It does not seem reasonable for Rule 21-500 (C) (3) (b) (iv)'s prohibition on the use of the prestige of judicial office for fund-raising to apply to a non incumbent judicial candidate that has not attained office and therefore does not have any prestige to use.

It should be noted that the Model Code of Judicial Conduct prohibits candidates from inappropriate political activity and makes no reference to any prohibition of judicial candidates to fund-raising or membership solicitation.

Also it should be noted that this opinion is limited to the fact situation as set out herein. It applies only to 21-500 (C) (3) (b) (iv) and to non incumbent judicial candidates. The application of the code to judicial candidates should be made based upon the fact situation in each case.

Very truly yours,

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

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