

JUDICIAL INQUIRY COMMISSION

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ADVISORY OPINION 99-718

USE OF TITLE "JUDGE" IN CAMPAIGN FOR DIFFERENT JUDICIAL OFFICE THAN ONE CURRENTLY HELD

ISSUE

May a sitting judge use the title "Judge" in his campaign materials when running for a different judicial office and, if so, do various proposed materials conflict with Canon 7 or Advisory Opinion 88-331? **Answer:** A sitting judge may use the title "Judge" in a campaign for a different judicial office, but when he does so he must either identify his current judicial position or otherwise indicate that he is not the incumbent in the current race.

FACTS

A district judge is running for a position as a circuit judge. He has prepared proposed campaign materials including lapel stickers, push cards, bumper stickers, flyers, and stationery in which he uses the title "Judge" before his name. Some of the materials indicate that he is not and/or has never been a circuit judge. Other materials do not provide this information, for example, a proposed bumper sticker that states,

Judge XXXX
CIRCUIT COURT PLACE NO. X.

DISCUSSION

Canon 7B(1)(c) states, in pertinent part, that a candidate for judicial office "shall not misrepresent his or her identity, qualification, present position, or other fact." Canon 7B(2) includes a requirement that a judicial

candidate not "post, publish, broadcast, transmit, circulate, or distribute true information about a judicial candidate . . . that would be deceiving or misleading to a reasonable person."

In Advisory Opinion 88-331, the Commission held that a district judge who is running for circuit judge may appear in his judicial robes in his campaign literature, but that he should make sure that his campaign literature accurately reflects his qualifications and, thus, that it not in any way suggest that he had previously served as a circuit judge.

It is the opinion of the Commission that a sitting judge may use the title "Judge" in his campaign materials when he is running for a different judicial office, but he must do so in a manner that does not mislead the voter to believe that he is the incumbent in the office that he seeks. For example, a bumper sticker, yard sign or billboard for an incumbent circuit judge who is seeking a seat on the supreme court that reads, "Judge John Doe, Supreme Court" may well mislead a voter to believe that Judge Doe is already a member of the supreme court; whereas, the use of the words, "Elect Judge John Doe, Supreme Court" are not likely to mislead, nor are the words, "Vote for Judge Doe, Supreme Court" or "Vote Judge Doe for Supreme Court."

In campaign literature, as opposed to bumper stickers, yard signs and billboards, the candidate must either identify his current judicial position or otherwise indicate that he is not the incumbent in the current race.

It is the opinion of the Commission that the flyer submitted for review is in compliance

with Canon 7 because it lists each judicial office the judge has held, along with the number of years in each position. The bumper sticker submitted for review is not in compliance with Canon 7 because it could reasonably be expected to mislead a voter about the candidate's current position.

REFERENCES

Alabama Advisory Opinion 88-331.

Alabama Canons of Judicial Ethics, Canons 7B(1)(c) and 7B(2).

This opinion is advisory only and is based on the specific facts and questions submitted by the judge who requested the opinion pursuant to Rule 17 of the Rules of Procedure of the Judicial Inquiry Commission. For further information, you may contact the Judicial Inquiry Commission, 800 South McDonough Street, Suite 201, Montgomery, Alabama 36104; tel.: (334) 242-4089; fax: (334) 240-3327; e-mail: jic@alalinc.net.