

## JUDICIAL INQUIRY COMMISSION

DATE ISSUED: DECEMBER 20, 2000

ADVISORY OPINION 00-768

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### WRITING A LETTER REQUESTING SUPPORT FOR LEGAL AID ORGANIZATION

#### ISSUES

May a judge write a proposed letter to members of the local bar association soliciting support for the local Legal Aid program? **Answer:** No.

#### FACTS

A circuit judge proposes sending a letter to members of the local bar association soliciting support for the local Legal Aid program. The letter would be on plain paper in a plain envelope that uses the judge's home address as the return address. The judge would not use his judicial title; he would sign the letter as an individual, and he would personally pay the postage. The letter would inform attorneys that, due to level funding and inflation, financial resources for Legal Aid had been cut in half over the past twenty years. Stating that the existing situation at the local Legal Aid office threatens the concept of equal justice under the law, the judge would ask the attorneys to include Legal Aid in their thoughts and prayers, and to telephone the Legal Aid office to offer assistance.

#### DISCUSSION

Although the proposed letter does not expressly ask for a financial contribution, at least one of the objectives of the letter clearly is to raise funds and/or services to offset a reduction in public funding for the local Legal Aid office. In considering the judge's inquiry, the Commission has studied Canons 4 and 5 of the Alabama Canons of Judicial Ethics.

Canon 4 provides that, subject to proper performance of judicial duties, a judge may engage in certain quasi-judicial activities if, in so doing, he does not cast doubt on his capacity to decide impartially any issue that may come before him. Quasi-judicial activities permitted under Canon 4 include assisting an organization "devoted to the improvement of the law, the legal system, or the administration of justice" to raise funds. Canon 4C also states that a judge "may make recommendations to public and private fund-granting agencies on projects and programs concerning the law, the legal system, and the administration of justice."

Canon 5 permits a judge to participate in "civic and charitable activities that do not reflect adversely upon his impartiality or interfere with the performance of his judicial duties." In addressing leadership capacities with civic and charitable organizations, Canon 5B(1) states that a judge should not so serve "if it is likely that the organization or institution will be engaged in proceedings that would ordinarily come before him or will be regularly engaged in adversary proceedings in any court." Canon 5B(2) states that it is "desirable that a judge not solicit funds for any educational, religious, charitable, fraternal, or civic organization, or use or permit the use of the prestige of his office for that purpose."

B As the Commission has previously stated, Canon 5B(2) strongly discourages but does not absolutely prohibit participation in fund raising for civic and charitable organizations. *See, e.g.*, Advisory Opinions 83-174 and 96-596. Participation in fund raising presents a danger that the prestige of the judicial office will be used for the solicitation

of funds. Advisory Opinions 81-101 and 96-596. It also involves a danger that the person solicited will feel obligated to respond favorably if the judge is in a position of influence or control. Commentary to the Model Code of Judicial Conduct, Canon 4C(3)(b) (1990). A judge who participates in fund raising for a civic or charitable organization must be ever mindful of the provisions of Canons 1 and 2, and must limit such participation so that he or she does not lend the prestige of his or her judicial office to the event or otherwise violate either the letter or the spirit of Canons 1 and 2. Advisory Opinions 83-174, 83-179, 85-242, and 96-596.

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](mailto:jic@alalinc.net).

Advisory Opinion 00-747.

In the opinion of the Commission, sending the proposed letter to the members of the local bar would create a question as to the judge's impartiality. *See*, Advisory Opinion 87-293. Thus, sending the letter would be contrary to the Alabama Canons of Judicial Ethics regardless of whether the legal aid program is considered a civic or charitable organization (Canon 5B), or an organization dedicated to improvement of the legal system and the administration of justice (Canon 4).

#### REFERENCES

Alabama Advisory Opinions 87-293, and 00-747.

Alabama Canons of Judicial Ethics, Canons 4, 4C, 5, 5B(1), and 5B(2).

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