

JUDICIAL INQUIRY COMMISSION

DATE ISSUED: JANUARY 30, 2004

ADVISORY OPINION 04-834

USE OF JUDICIAL TITLE OR OFFICE IN FUND RAISING

ISSUE

May a judge permit reference to be made to his judicial office when he is introduced to give a report for an organization during a church service when, at the conclusion of the service, a love offering is made to the organization? **Answer:** Yes.

FACTS

A circuit judge is a member of the Gideons organization. In this capacity, he is called on to speak in local churches, giving a report of the organization's efforts to distribute Bibles. At the end of the service, a love offering is usually made to the Gideons organization. During the minister's introduction, the minister usually mentions that the speaker is a circuit judge. The judge inquires whether this violates Canon 5B(2).

DISCUSSION

Canon 5B states that a judge may participate in civic and charitable activities "that do not reflect adversely upon his impartiality or interfere with the performance of his judicial duties," and that a judge may serve as an officer, director, trustee, or nonlegal advisor of a religious, charitable, or other civic organization subject to certain limitations, including the following:

- (2) It is desirable that a judge not solicit funds for any educational, religious, charitable, fraternal, or civic organization or institution, or use or permit the use of the prestige of his office for that purpose, but he may be listed as an officer, director, or trustee of such an organization or institution.

The Commission has previously addressed participation in fund raising as follows:

... 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.

Advisory Opinions 00-747 and 00-753.

In Advisory Opinion 00-753, the Commission concluded that a judge may not use his judicial position or title in fund-raising activities. That opinion involved a proposed letter endorsing a particular charitable organization that the organization would use to support grant applications, major gift proposals, and other funding documents. The letter not only used the judge's official title in the signature block, it emphasized his official position in endorsing the organization's fund-raising efforts. *See also*, Advisory Opinions 84-216 (a judge should not permit his name to be listed along with the title "Judge" on stationery of an educational foundation that he knows will be used for the purpose of soliciting funds because to do so would "permit the use of the prestige of his office for the purpose of soliciting funds"); and Advisory Opinion 96-596 (ad-

vising a judge that his name should not be listed as a judge on an invitation to a fund-raising dinner that would be held in the judge's home).

In Advisory Opinion 93-492, the Commission decided that the canons permitted a judge to speak on behalf of the need for a Big Brothers/Big Sisters organization even though a portion of the program would involve the direct solicitation by other speakers of financial contributions for that organization. The Commission did advise, however, that the judge should not appear in his judicial robe in making such a presentation. *See also*, Advisory Opinion 90-398 (mere identification of a judge as a judge on the cover of a book he wrote does not "exploit his judicial position" in violation of Canon 5C(1)).

The primary purpose of the reports at issue is not fund solicitation and, in the Commission's opinion, merely permitting a minister to identify the speaker as a judge in these circumstances does not involve an impermissible use of the prestige of the judicial office for fund-raising purposes. This is not a situation in which a judge is personally using, or permitting another to use, the prestige of his office for fund solicitation.

The Canon 5B(2) does discourage a judge from personally soliciting funds for any educational, religious, charitable, fraternal, or civic organization or institution, and Canon 2B does state that a judge "should not lend the prestige of his office to advance the private interests of others." Thus, in the Commission's opinion, the judge should refrain from personally asking for contributions when he has been identified as a judge.

REFERENCES

Advisory Opinions 84-216, 90-398, 93-492, 96-596, 00-747 and 00-753.

Alabama Canons of Judicial Ethics, Canons 2B and 5B(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, P. O. Box 303400, Montgomery, Alabama 36130-3400; tel.: (334) 242-4089; fax: (334) 353-4043; E-mail: jic@alalinc.net.