



The Supreme Court of Kansas

Kansas Judicial Center
Topeka, Kansas 66612-1507

JUDICIAL ETHICS ADVISORY PANEL

Judicial Ethics Opinion JE 100

August 24, 2000

FACTS: A judge who is up for retention this year, and who has not drawn active opposition, has received a short questionnaire from a local newspaper. An editorial committee will use the information to determine whether to endorse the judge for retention in office. The judge did not solicit the questionnaire. The newspaper has sent similar questionnaires to judges up for retention or election in surrounding counties for several years.

The questions posed on the questionnaire are as follows:

1. Please list basic biographical information about yourself here, such as education, occupation, family etc.
2. Give your experience in elective or appointive office, or as a candidate for office.
3. If you are an incumbent, what judicial accomplishments can you cite? What would be your priorities if retained in office?
4. Do you favor or oppose judicial candidates accepting campaign contributions from lawyers who practice in their courts, or lawyers generally, or from other sources considered to be special interests?
5. Are current criminal sentencing guidelines and criminal laws adequate?
6. How, in your opinion, could the court system be improved?

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CAROL J. SHEP
CLERK OF DISTRICT COURTS



7. Are the Canons of Judicial Conduct overly restrictive on what judicial candidates are allowed to say during their election campaigns? Feel free to discuss this issue as well as other possible limitations on judicial candidates.

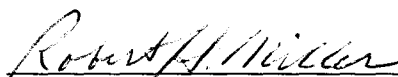
QUESTION: May the judge respond to the questionnaire?

ANSWER: Two members of the panel answer: No, responding to the questionnaire is a request for a public endorsement, in violation of Canon 5C(2), 1999 Kan. Ct. R. Annot. 485, which reads:


“A candidate shall not personally solicit...publicly stated support...”

The newspaper conditions its possible endorsement of the judge upon the return of the questionnaire. Thus, answering and returning the questionnaire is a request for a public endorsement, a violation of Canon 5C(2).

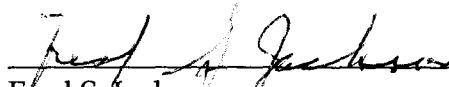
One member of this panel answers: Yes, the judge may respond to the questionnaire. However, in answering the questions, the judge must be ever mindful of the Canons of Judicial Conduct, and particularly Canon 5, 1999 Kan. Ct. R. Annot 461, 481. This panel member observes that the newspaper not only uses the responses in part to determine its endorsements, but also it publishes the responses to its questionnaires, thus providing a vital service of informing its readers about the candidates for election and retention, which it cannot do absent a response to its questionnaires.



Robert H. Miller, Chairman



Adrian J. Allen



Fred S. Jackson