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The Supreme Court of Kansas

Kansas Judicial Center

Topeka, Kansas 66612-1507

JUDICIAL ETHICS ADVISORY PANEL

Judicial Ethics Opinion JE 110

January 23, 2002

QUESTION:

A part-time municipal judge who holds court one day each month inquires whether he or she may serve as a precinct committee member, and whether he or she may accept a term as a city council member if he or she is written in on the ballot and elected without his or her consent.

ANSWER:

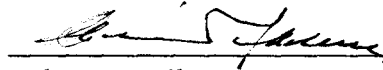
Canon 5A (1)(a), 2001 Kan. Ct. R. Annot. 506, specifically provides that "...a judge...shall not...hold an office in a political organization..." However, a part-time judge is not required to comply at any time with Section 5A(1). See application of the Code of Judicial Conduct, paragraph C(1)(b), 2001 Kan. Ct. R. Annot. 511.

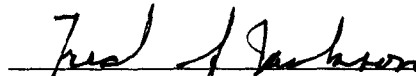
Canon 5A(2), 2001 Kan. Ct. R. Annot. 507, provides that "A judge shall resign from judicial office upon becoming a candidate for nonjudicial office..." (emphasis supplied). Canon 5A(1) refers to "an office in a political organization" and Canon 5A(2) refers to a "nonjudicial office." Since the part-time judge may hold office in a political organization, we hold that Canon 5A(2) does not prohibit the judge from becoming a candidate for precinct committee member.

Turning to the second question, we note that Canon 5A(2), 2001 Kan. Ct. R. Annot. 507, provides that "A judge shall resign from judicial office upon becoming a candidate for nonjudicial office..." (emphasis supplied.) A person becomes a "candidate...as soon as he or she makes a public announcement of candidacy, declares or files as a candidate...or authorizes solicitation or acceptance of contributions or support..." See Terminology, 2001 Kan. Ct. R. Annot. 486-487. The judge indicates that he or she will not announce his or her candidacy, or seek or file for the office. We presume that he or she will not authorize solicitation or acceptance

of contributions or support. However, the judge may become a write-in candidate without his or her encouragement or consent, as happened in prior years. Under these circumstances, we hold that he or she is not a "candidate," and need not resign as judge.


Robert H. Miller, Chairman


Adrian J. Allen


Fred S. Jackson