



State of Kansas

Office of Judicial Administration

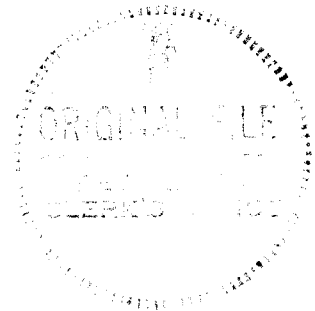
Kansas Judicial Center
301 West 10th
Topeka, Kansas 66612-1507

(913) 296-2256

JUDICIAL ETHICS ADVISORY PANEL

September 27, 1985 ~~1988~~

Judicial Ethics Opinion JE-26



Topic

Remittal of a Relationship Disqualification

The son-in-law of a judge is a law enforcement officer stationed within the judicial district of the judge.

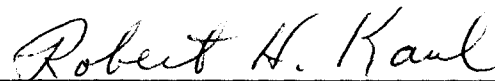
If the son-in-law appears to be a material witness in a case over which the judge is to preside, the judge, of course, would be required to recuse under the terms of Canon 3C. Even though the judge is disqualified by reason of the relationship, the judge states that he intends to handle such a matter, if it occurs, in this manner:

"I would disclose on the record the fact that my son-in-law . . . could quite possibly be a witness. If based on such disclosure the parties and lawyers independently of my participation all agree in writing that the relationship of my son-in-law to me is immaterial, I would take the position that I was not disqualified and could go ahead and try the jury case."

In general, the proposal of the judge falls within the procedure for "Remittal of Disqualification" as set out in Canon 3(D) which provides for the remittal of a disqualification under 3C(1)(c) or 3C(1)(d). The procedure for a remittal of disqualification under 3(D) is set out in detail and should

be followed carefully in order to protect the validity of a judgment.

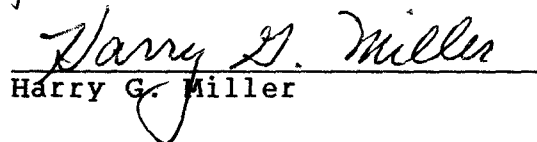
Accordingly, it is our opinion that a remittal of disqualification, under the facts stated, is proper if the procedure set out in Canon 3(D) is followed.



Robert H. Kaul, Chairman



John W. Brookens



Harry G. Miller