



The Supreme Court of Kansas

Kansas Judicial Center

Topeka, Kansas 66612-1507

JUDICIAL ETHICS ADVISORY PANEL

Judicial Ethics Opinion JE 86

February 8, 1999

FILED

FEB 8 1999

CAROL G. GREEN
CLERK OF APPELLATE COURTS



FACTS: The petitioner is a lawyer in a small town and one of only three lawyers in town who regularly practice criminal law. Though they have separate offices, they are all located in a building owned by the petitioner. They each have their own secretarial staff, telephone lines and letterheads, but they all share a waiting room and the hallway system. They do not represent themselves as partners and none of them share any economic benefit from the business of either of the others. The petitioner has been approached as to any interest the petitioner may have in the town's municipal judgeship. Before responding, the petitioner raises the following questions:

QUESTION 1: May a municipal judge accept criminal appointments and represent other defendants on a private basis in the District Court?

ANSWER: The substance of this question is the same as the question posed in JE-72 and the answer is the same.

QUESTION 2: May the other lawyers housed in the judge's building practice before the petitioner as municipal judge?

ANSWER: The judge would be required to disqualify himself or herself in a proceeding in which his or her impartiality might reasonably be questioned in the mind of a reasonable person with knowledge of all of the circumstances. Canon 3E(1), 1998 Kan. Ct. R. Annot. 455; *State v. Alderson*, 260 Kan. at 454, 1996. He or she would also be required to disqualify himself or herself in cases in which a party is represented by a lawyer with whom the judge practices law. Canon 3E(b), 1998 Kan. Ct. R. Annot. 455. We do not believe a reasonable person would question the impartiality of the judge in cases in which a party is represented by one of the lawyers housed in the judges' building on the facts presented and we do not believe, on the facts presented, that he or she would be considered to be in the practice of law with the other lawyers housed in the judge's building as the term is used in the canons. We therefore believe the other lawyers housed in the judge's building could practice before the petitioner as municipal judge.

QUESTION 3: May a municipal judge also serve as District Judge pro tempore?

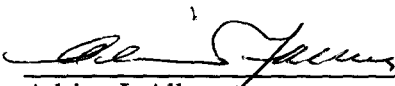
ANSWER: Yes. See Rule 651, 1998 Kan. Ct. R. Annot. 490.

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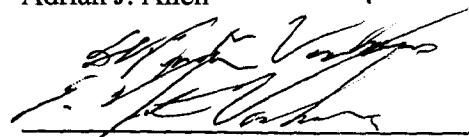
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QUESTION 4: May a District Judge pro tempore appear as a lawyer in the District Court?

ANSWER: Yes, but not during service as a District Judge pro tempore. See 1998 Kan. Ct. R. Annot. 470.



Adrian J. Allen



E. Newton Vickers

Robert H. Miller, Chairman, is not participating