

Maryland Judicial Ethics Committee

Opinion Request Number: 1972-01

Date of Issue: April 7, 1972

O Published Opinion **G** Unpublished Opinion **G** Unpublished Letter of Advice

Judge Not Running for Election Not to Participate in or Contribute to Other Judicial Election Campaigns

You have asked the Judicial Ethics Committee of the Maryland Judicial Conference to consider the extent to which members of the Maryland Judiciary may participate in a campaign sponsored by a nonpartisan committee in support of the election of [a trial judge] and of [an appellate judge].

In Maryland, judges, with the exception of judges of the District Court of Maryland*, are elected for their full fifteen year term by a political process. They must file for nomination in party primaries and are elected at a general election where other candidates for political office are chosen. If a candidate wins one party primary but fails to win the other, the name of each winner appears on the general election ballot in the same way as other opposing nominees except that no party designation appears. It is certainly known, however, that one candidate has won a Democratic primary and the other, a Republican primary.

We have given careful consideration to the question and have concluded that members of the judiciary may not within the bounds of propriety participate in such a campaign or make contributions in support of it.

In the first place, a nonpartisan committee is nonetheless partisan because it has no formal affiliation with a political party. The determination to support a candidate who may be singled out from a group of his opponents would seem to be as much of a partisan effort as the support of a candidate by one of the major political parties.

In the second place, the principal thrust of the Canons of Judicial Ethics and the Rules of Judicial Ethics adopted by the Maryland Judicial Conference, as well as that of the tentative draft of the Canons of Judicial Ethics promulgated by the American Bar Association, is directed at either the scope of activities in which a judge may engage in support of his own candidacy, which is permissible subject to certain limitations, or alternatively, at participation in political activities generally, which is proscribed.

Maryland Canon XXVII prohibits a judge from “making political speeches, making or soliciting payment of assessments or contributions to party funds” and precludes “the public endorsement of candidates for political office.”

Maryland Rules 3, 4 and 9 bear tangentially on the problem, barring political activity by a judge, except in support of his own candidacy. The Maryland Canon and Rules do not differ

* As of the editing date [July 10, 2006], the exception extends to appellate judges who run in retention elections for 10-year terms. Maryland Constitution, Article IV, § 5A. Also, Orphans’ Court judges hold office for 4 years. Maryland Constitution, Article IV, § 40.

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significantly from Canon 7 of the tentative American Bar Canons.

We have concluded that it would be improper for a judge publicly to support or endorse the candidacy of any individual seeking election to office, even though he be a judicial colleague. Nor would it be appropriate for a judge to make a contribution in support of a judicial candidate because Code (1957, 1971 Repl. Vol., 1971 Supp.) Article 33, §§ 26-11, 26-12, requires the filing of the names and addresses of contributors not less than seven days before and not more than 30 days after an election.* This could certainly be regarded as an impermissible public endorsement.

* As of the editing date [July 10, 2006], the filing dates have been changed. *See* Maryland Code, Election Law Article, § 13-309.