

Maryland Judicial Ethics Committee

Opinion Request Number: 1979-11

Date of Issue: January 23, 1980

■ Published Opinion Unpublished Opinion Unpublished Letter of Advice

Master May Solicit Support for Judicial Appointment from Lawyers Appearing Before Master

Pursuant to Rule 16(c) of the Rules of Judicial Ethics, you have requested the opinion of this Committee concerning the propriety of solicitations of support for your appointment to X Court by members of the Bar appearing before you, many of whom appear on a regular basis.

You state that since [date] you have been a full time Master ... assigned to ____ Court, and that you are contemplating approaches to members of the Bar, personally familiar with your qualifications, to support your candidacy by communicating with the Judicial Nominating Commission. Your concern is whether solicitation of such endorsements may be viewed as a violation of Standard XXIV contained in Maryland Rule 1232, and applicable to masters, examiners, auditors, referees, and District Court commissioners, all of whom are sometimes referred to as “appointees.”*

As you have noted in your letter of inquiry, Standard XXIV states in part:

“If an appointee becomes a candidate for any judicial office, he should refrain from all conduct which might tend to arouse reasonable suspicion that he is using the power or prestige of his position to promote his candidacy or the success of his party.

He should not knowingly permit others to do anything in behalf of his candidacy which would reasonably lead to such suspicion.”

Substantially the same language, as you are aware, appears in Canon XXIX of Maryland Rule 1231, applicable to judges.

The Committee has met and given careful consideration to the question you have presented. We recognize that to prohibit a judge or an “appointee” from soliciting the support of attorneys for judicial appointment or election, when such solicitation may be made freely by opponents not holding such positions, would be a gross inequity. We are also cognizant that it has long been an accepted practice throughout the State for committees to solicit endorsements of sitting judges who are candidates for election, and such endorsements have been publicized in newspaper advertisements prior to the election. Members of the Bar have felt free to endorse or not endorse such candidates without concern that such support, or the withholding of such support, would influence the decisions of the candidate involved.

It is the judgment of the Committee that the answer to your specific question must depend upon the manner in which such solicitations are conducted. The Committee feels that it would not be a violation of the Standard for you to inform members of the Bar of your interest in an appointment to a judgeship; and to advise them that you would appreciate any support they might

* As of the date of editing [July 10, 2006], “judicial appointee” is the defined term used through Maryland Rule 16-814.

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wish to express to the appropriate authorities. They should not, however, be required to state whether they agree to support or decline to do so, nor should they be requested to communicate to you any action they may take. In short, there must be no pressure, actual or implied. There can then be no reasonable suspicion that the power or prestige of your position is being used to promote your candidacy.