

Maryland Judicial Ethics Committee

Opinion Request Number: 1987-03

Date of Issue: July 29, 1987

Published Opinion Unpublished Opinion Unpublished Letter of Advice

Judge May Chair Task Force for Justice Fellowship

A ... judge has asked the Committee's opinion regarding the propriety of his serving as Chairman of a Task Force for Justice Fellowship. His letter states that the Task Force's goal is to promote the establishment and use of Restitution Centers or Community Adult Rehabilitation Centers. It is our understanding that the terms "Restitution Center" and "Community Adult Rehabilitation Center" are synonymous, and that the term "Community Adult Rehabilitation Center" means the institution of that same name described in and provided for in Md. Ann. Code art. 27, §§ 706 – 710E (1982 Repl. Vol. and 1986 Cum. Supp.).*

Because the letter and the attachments thereto contain very little specific information regarding Justice Fellowship or the Task Force for Justice Fellowship and how the goals of that Task Force will be accomplished, the Committee has made certain assumptions for purposes of reaching its conclusion that the acceptance of the Chairmanship of the Task Force in question is not proscribed by the Code of Judicial Conduct (effective July 1, 1987) (the "Code"). The assumptions drawn are based upon Canon 4's recognition that a judge should be permitted to engage in certain extra-judicial activities "if doing so does not interfere with the proper performance of judicial duties, does not reflect adversely upon the judge's impartiality, and does not detract from the dignity of the office."

The Committee assumes that Justice Fellowship is an educational, religious, charitable, fraternal, law-related, or civic organization that is not conducted for the economic or political advantage of its members. See Canon 4C of the Code. The Committee further assumes that it is not likely that either Justice Fellowship or the Task Force "(a) will be engaged in proceedings that would ordinarily come before the judge; (b) will be regularly engaged in adversary proceedings in any court; and (c) deals with people who are referred to the organization by the court on which the judge serves or who otherwise may likely come before that court." See Canon 4C (1) of the Code.

In [Opinion Request No. 1981-13 (unpublished), 16 February 1982], the Committee opined that a judge may not serve as board president of a community adult rehabilitation center because the position in question involved direct participation in an agency that "is closely related to the work of the District Court and ... representatives of the agency as well as current and former residents of the program may appear before the Court." Similar reasoning was adopted in a more recent ... opinion [Opinion Request No. 1987-02 (unpublished), (19 June 1987)], in which the Committee concluded that Canon 4C prohibited a judge from serving as a member of the board of directors of [an alcohol rehabilitation corporation]. However, in [Opinion Request No. 1979-07] (13 September 1979), the Committee reasoned that a judge could serve as a member of a county alcoholism and

* As of the editing date [July 10, 2006], Maryland Code, Correctional Services Article, Title 11, Subtitle 3.

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[sic] advisory council because members of that council would be “well insulated from the actual participants in the program and there is little likelihood that any litigation concerning the advisory council would be before” the judge. The Committee believes that the Task Force for Justice Fellowship occupies a position comparable to the advisory council at issue in [Opinion Request No. 1979-07]. Like that council, Justice Fellowship appears to be at least one step removed from an organization or participant that would appear before the court.

It is also the Committee’s understanding that the Task Force for Justice Fellowship does not intend to solicit funds to accomplish its goals, and that therefore the proscriptions of Canon 4C(2) of the Code will not be violated. That subsection provides as follows:

A judge should not solicit funds for any such organization, or use or permit the use of the prestige of the judge’s office for that purpose, but a judge may be listed as an officer, director, or trustee of the organization. A judge may make recommendations to public and private fund granting agencies on projects and programs of which the judge has personal knowledge and which concern the law, the legal system, or the administration of justice. A judge should not be a speaker or the guest of honor at an organization’s fund raising events, but may attend such events.

See also [Opinion Request No. 1980-10] (25 November 1980).

Regarding efforts to build State and local support for the establishment and use of community adult rehabilitation centers, the Committee assumes that any such efforts will be confined to appearing before or conferring with those public bodies and public officials who are specified in Md. Ann. Code art. 27, §§ 706 – 710E* as being responsible for the establishment and location of such centers, and that the purpose of any such appearances or conferences will be confined to fostering the purposes for which art. 27, §§ 706 – 710E* were enacted. This assumption is based upon the provisions of Canon 4B of the Code. Although subsection (1) of Canon 4B allows a judge’s participation, as a judge, before public bodies or officials on matters concerning the administration of justice, subsections (2) and (3) of Canon 4B place restrictions upon a judge’s appearance when he is acting as a private citizen or as a representative of his country, state, or locality.

The Committee concludes that acceptance of the position of Chairman of the Task Force for Justice Fellowship is not proscribed. However, we reiterate that this conclusion is based upon the assumptions specified above.