

The Supreme Court of Ohio

BOARD OF COMMISSIONERS ON GRIEVANCES AND DISCIPLINE

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OFFICE OF SECRETARY

OPINION 87-013

[Former CJC Opinion-provides advice under the former Ohio Code of Judicial Conduct which is superseded by the Ohio Code of Judicial Conduct, eff. 3/1/2009.]

[Not Current- subsequent rule amendments to Canons 1 through 6, Ohio Code of Judicial Conduct, eff. May 1, 1997]

SYLLABUS: Under Canon 5G of the Code of Judicial Conduct, a judge should not accept appointment to a governmental committee that is concerned with issues of fact or policy other than the improvement of the law, the legal system, or the administration of justice.

TO: Judge Robert P. Ringland, Clermont County Court of Common Pleas

FROM: The Board of Commissioners on Grievances and Discipline of the Judiciary

DATE: June 22, 1987

We have before us your request for an informal advisory opinion on whether your membership on the Clermont County Hazardous Materials Task Force would violate the Code of Judicial Conduct (the "Code"). In your request letter, you state that the purpose of the committee is to review and make recommendations relative to hazardous material and the ability of the county to respond to incidents and spills.

As you point out in your request letter, Canon 5G is applicable to your situation. Canon 5G states:

A judge should not accept appointment to a governmental committee, commission, or other position that is concerned with issues of fact or policy on matters other than the improvement of the law, the legal system, or the administration of justice. A judge, however, may represent his country, state, or locality on ceremonial occasions or in connection with historical, educational, and cultural activities.

Code of Judicial Conduct, Canon 5G (1973).

The commentary to Canon 5G provides some insight to the limitations on extra-judicial assignments as set forth in the Canon. The commentary states:

Valuable services have been rendered in the past to the states and the nation by judges appointed by the executive to undertake important extra-judicial assignments. The appropriateness of conferring these assignments on judges must be reassessed, however, in light of the demands on judicial manpower created by today's crowded dockets and the need to protect the courts from involvement in extra-judicial matters that may prove to be controversial. Judges should not be expected or permitted to accept governmental appointments that could interfere with the effectiveness and independence of the judiciary.

Code of Judicial Conduct, Canon 5G Commentary (1973).

The rationale for the adoption of Canon 5G was that the "time and prestige of the judiciary should not be expended on the resolution of non-judicial public issues." E. W. Thode, Reporter's Notes to Code of Judicial Conduct, 90 (1973).

In an article on this issue, Dean McKay commented in part that:

[w]henver issues that are highly visible and sensitive are entrusted to a public commission for resolution or

recommendation, the results are unlikely to satisfy all the critics, perhaps none. Participation in such a process by members of the judiciary is less likely to settle a troublesome public issue than to lend credence to the all-too-common charge that the courts are part of the political process . . .

McKay, The Judiciary and Non-judicial Activities, 5 Law & Contemp. Prob. 9, 25 (1970).

Given the language of Canon 5(G), its commentary, the reasoning behind the adoption of Canon 5G, and Dean McKay's comments, we are of the opinion that you should not serve on the Countywide Hazardous Materials Task Force. This is especially true in light of the fact that you may be presiding over a case involving county landfills.

Therefore, it is the opinion of the Board of Commissioners on Grievances and Discipline of the Judiciary, and you are so advised, that membership on the Countywide Hazardous Materials Task Force would be in violation of Canon 5G of the Code, as adopted by the Supreme Court of Ohio.

This opinion is advisory in nature, is based upon the facts as presented and is limited to questions arising under the Code of Judicial Conduct.

James W. Mason, Esq.
Secretary, Board of Commissioners
on Grievances and Discipline