

The Supreme Court of Ohio

BOARD OF COMMISSIONERS ON GRIEVANCES AND DISCIPLINE

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OFFICE OF SECRETARY

OPINION 87-037

Issued: September 25, 1987

[Withdrawn- by Board on Dec. 5, 1997 due to Canon 7 amendments]

SYLLABUS: Under Canon 7B(2) of the Code of Judicial Conduct, a candidate for judicial office, through a fund-raising committee, may solicit funds for his or her campaign no earlier than 120 days before each election in which he or she participates. Therefore, a candidate in the primary election may not commence the solicitation of funds earlier than 120 days prior to the date of that primary election. Likewise, a candidate in the general election may not commence the solicitation of funds earlier than 120 days prior to the date of the general election.

OPINION: We have before us your request for our interpretation of Canon 7B (2) of the Code of Judicial Conduct. Specifically, your request relates to when a candidate for judicial office may begin fund-raising.

It is important, for purposes of our discussion, to understand the meaning of the term "candidate." Under the Ohio law, a candidate is defined as "any qualified person certified in accordance with the provisions of the Revised Code for placement on the official ballot of the primary, general, or special election to be held in this state, or any qualified person who represents himself to be a write-in candidate, or who knowingly assents to such representation by another at either a primary, general, or special election to be held in this state." Ohio Rev. Code 3501.01(H) (Baldwin 1987).

The provision in the Code of Judicial Conduct relating to fund-raising in judicial campaigns states: "[a] candidate's committee may solicit funds for his campaign no earlier than 120

days before a primary election and no later than 120 days after the last election in which he participates during the election year." Code of Judicial Conduct, Canon 7B(2).

We believe that this 120-day rule permits candidates for judicial office, through their fund-raising committee, to commence their fund-raising activities 120 days prior to each election in which they participate as a candidate. This includes primary and general elections. Those participating in an election include opposed, unopposed and write-in candidates which are duly qualified and certified in accordance with the provisions of the Revised Code. Therefore, if the candidate is participating in a May 5th primary, he or she may not commence fund-raising any earlier than 120 days prior to May 5th. If, on the other hand, the candidate is participating only in the general election in November, then the candidate's fund-raising may not commence any earlier than 120 days prior to the general election date in November.

The framers of the Code enacted a time limitation on fund-raising, to be determined by the enacting jurisdiction, so that "the securing of campaign funds or pledges cannot be carried on throughout the year." E. W. Thode, Reporter's Notes to Code of Judicial Conduct 99 (1973). If candidates were permitted to solicit funds, through their committees, 120 days prior to the statewide May 5th primary election that they were not participating in, year-round fund-raising would result and the intent and purpose of Canon 7B(2) would be defeated.

Therefore, based on the foregoing, it is our opinion, and you are so advised, that fund-raising for judicial campaigns should commence no earlier than 120 days before each election in which the candidate participates.

This is an informal, non-binding advisory opinion, based upon the facts as presented and limited to questions arising under the Code of Judicial Conduct.

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Secretary
Board of Commissioners
on Grievances and Discipline