

The Supreme Court of Ohio

BOARD OF COMMISSIONERS ON GRIEVANCES AND DISCIPLINE

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OPINION 88-017

Issued August 12, 1988

[Withdrawn by Opinion 96-7 on Oct. 11, 1996]

SYLLABUS: There is nothing in the Code of Judicial Conduct which precludes a judge's or judicial candidate's campaign committee from making contributions to other candidates for public office. Whether the judge is a candidate for re-election in the year that his or her campaign committee is contributing to another candidate is immaterial. A judge or judicial candidate may contribute to his or her political party only in the years in which he or she is not a candidate for judge.

OPINION: We have before us three similar requests for advisory opinions which relate to Canon 7 of the Code of Judicial Conduct. Two of the requests ask whether a Judge may make a political contribution to another political candidate, judicial or otherwise. The third request asks whether it matters if the contributing judge is making the contributions in the year in which he or she is also a candidate for re-election. In addition, the third request asks whether a judge may make personal contributions to his political party in those years said judge is not a candidate for re-election.

Unlike the ABA's Code, Ohio's Code of Judicial Conduct does not preclude a judge or judicial candidate from making political contributions to other candidates for public office. The ABA version of Canon 7 specifically states that “[a] judge or a candidate for election to judicial office should not: ...make a contribution to a political organization or candidate...” ABA Code of Judicial Conduct, Canon 7A(1)(c). Therefore, because Ohio modeled its Code of Judicial Conduct after the ABA's Code but did not include the restriction on judges or judicial candidates making contributions to other candidates, it is our opinion that such contributions are permitted under Ohio's Code of Judicial Conduct.

In addition, the ABA's Canon 7 also states that “[a] candidate should not use or permit the use of campaign contributions for private benefit of himself or members of his family.” ABA Code of Judicial Conduct, Canon 7B(2). Ohio’s Canon 7 does not have a similar restriction. Ohio does have a similar provision in its elections laws but includes an exception for contributions made to other candidates. Ohio Rev. Code §3517.13(0) (BALDWIN, 1986). Therefore, in Ohio, judges and judicial candidates are not prevented from making contributions through their campaign committees to any other candidates, regardless of whether the contributing judge is running for re-election that year.

We do not believe that a contribution by a candidate for judicial office to another candidate should be considered a public endorsement of that candidate whether the contribution comes from a personal account or from a campaign committee. Code of Judicial Conduct, Canon 7A(1)(b). A candidate making a contribution to another candidate should however, guard against publicly endorsing that candidate. In addition, a judge should avoid lending the prestige of his or her office to advance the private interests of others. Code of Judicial Conduct, Canon 2B.

In regard to a judge or judicial candidate making a contribution to his or her political party, Canon 7A(2) states that a candidate for judicial office may not contribute to his political party in the year in which he is a candidate for election or re-election. Thus, it seems clear that contributions to political parties by a judge are permitted in those years in which the judge is not running for re-election.

In conclusion, it is our opinion and you are so advised that judges or candidates for judicial office are not precluded from making contributions to other candidates for public office. Such contributions are ethical whether they come from a personal account or from a campaign committee. Whether the contributing judge is running for re-election is not relevant. Finally, a judge may make contributions to his or her political party only in those years in which said judge is not running for re-election.

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

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Secretary, Board of
Commissioners