

The Supreme Court of Ohio

BOARD OF COMMISSIONERS ON GRIEVANCES AND DISCIPLINE

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OPINION 89-26

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[Withdrawn- by Board on October 10, 1997 due to amended Gov. Bar. VI §2, eff. Sept. 1, 1991]

SYLLABUS: A lawyer who is registered "inactive" under Governing Bar Rule VI cannot render services to others requiring the professional judgment of a lawyer.

OPINION: We have before us two requests for our opinion on whether an attorney, who is registered inactive with the Supreme Court of Ohio, would be engaged in the unauthorized practice of law by working voluntarily as a judicial law clerk or as an advisor to fellow church members on legal problems.

The Code of Professional Responsibility mandates that all attorneys assist in preventing the unauthorized practice of law. Code of Professional Responsibility Canon 3 (1988). In Ohio, the unauthorized practice of law is the rendering of legal services for others by anyone not registered under Gov. Bar R. VI. Gov. Bar R. VII §2(A). Gov. Bar R. VI which sets the standard for proper registration, permits an attorney admitted to the practice of law in Ohio to acquire inactive status. Gov. Bar R. VI, §8. However, an attorney registered inactive is not authorized to practice law.

The practice of law relates to the rendition of legal services for others that call for the professional judgment of lawyer. Code of Professional Responsibility, EC 3-5. The professional judgment of a lawyer is considered to be his educated ability to relate the general body and philosophy of law to a specific legal problem of a client. Code of Professional Responsibility, EC 3-5.

Generally speaking, the duties of a judicial law clerk are preparatory or ministerial in nature and do not include the rendition of services for others or the exercise of the professional judgment of a lawyer. Hence, an attorney registered inactive may properly act as a judicial law clerk.

With regard to an inactive attorney offering free legal advice to fellow church members, it is our opinion that simply because advice is given without charge does not exclude it from the

category of services rendered for others which call for the exercise of professional legal judgment. Therefore, we believe it would be improper for a lawyer registered inactive to render legal advice even voluntarily to fellow church members.

This is an informal non-binding advisory opinion based only on the facts presented and limited to questions arising under the Code of Professional Responsibility.