FLORIDA SUPREME COURT
JUDICIAL ETHICS ADVISORY COMMITTEE

Opinion Number: 08-10 (Elections)
Date of Issue: May 13, 2008

ISSUES

(1) May a judicial candidate, who has retired from the circuit bench, use the title “Judge” in campaign literature, media releases, printed ads, or other media venues?

ANSWER: No.

(2) May a judicial candidate, who has retired from the circuit bench, use the term “former judge” or “retired judge” in campaign literature, media releases, printed ads, or other media venues?

ANSWER: Yes.

(3) May a judicial candidate, who has retired from the circuit bench, utilize a robe in campaign literature, media releases, printed ads, or other media venues?

ANSWER: No.

(4) May the candidate’s campaign reproduce news articles (with the permission of the media source) that include editorials addressing the candidate as “Judge” or “Honorable” and that include photographs of the candidate prior to retirement, in a robe, and seated on the bench?

ANSWER: Yes.

FACTS

A judicial candidate, who retired as a circuit judge several years ago, is seeking election to a circuit judgeship. The candidate is concerned about the use of the title “Judge” in campaign literature, and the candidate’s appearance in a robe in campaign literature. The candidate is further concerned about the use of previously published articles and photos of the candidate as a judge.

DISCUSSION

Canon 7A(3)(d)(ii) provides that a candidate for judicial office shall not knowingly misrepresent the identity, qualifications, present position or other fact concerning the candidate.

Utilization of the title “judge” in campaign literature conveys the impression that the candidate is currently a sitting judge, not that the candidate has prior service as a judge. Use of this term would be a misrepresentation of the current status of the candidate and would violate...
Canon 7A(3)(d)(ii). In Fla. JEAC Op. 02-07, the inquiring judge was appointed and inquired whether the terms “re-elect” or “retained” could be used in campaign literature. This committee opined that when the use of a word in a campaign is likely to lead others to draw an inaccurate conclusion, or would likely result in confusion, that word is to be avoided. Likewise, the unqualified use of the word “judge,” preceding the candidate’s name, should be avoided.

However, utilization of the term “former judge” or “retired judge” is a relevant and truthful statement of qualifications and does not violate Canon 7A(3)(d)(ii).

If the judicial candidate wears a robe in campaign literature, the candidate runs the risk that the public would perceive that the candidate is a sitting judge, thus misrepresenting the candidate’s status. Utilization of photographs with the judge wearing a robe would be permissible if the images were taken while the judge was on the bench and the literature makes clear that the photographs refer to the candidate’s prior service. This rationale is consistent with Fla. JEAC Op. 06-11, in which the Election’s Subcommittee saw no impediment to a candidate with prior magistrate experience wearing a robe if it is common for a magistrate to wear a robe in that Circuit, the pictures are not staged and were taken during the course of actual proceedings, and the candidate takes pains to emphasize that the photograph is not intended to convey the impression that the candidate has actual service as a judge.

For the reasons set forth above, the candidate may also use articles depicting the candidate as a judge and prior photos of the judge. Such information is relevant, and if presented properly, is not misleading. The candidate should take adequate measures to emphasize that the articles and photographs refer to prior judicial service and are not intended to convey the impression that the candidate is currently serving as a judge.

The candidate should review the facts and rationale of In Re: Inquiry Concerning a Judge, Re: Nancy Alley, 699 So. 2d 1369 (Fla. 1997). Judge Alley was reprimanded, in part, for claiming to have circuit judicial experience, when her service was as a general master, and including in her campaign literature a portion of a newspaper editorial, which falsely represented that the candidate has been endorsed by her local newspaper.

Finally, the candidate is reminded that Judge John Renke III was removed from office for numerous violations of the Code. In Re: Inquiry Concerning a Judge, Re: John Renke III, 933 So. 2d 482 (Fla. 2006). The Court found that Judge Renke violated Canon 7A by misrepresenting in a campaign brochure that he was an incumbent judge and by describing himself as “John Renke, a Judge With Our Values” when at the time he was not a sitting or incumbent judge.

REFERENCES

Fla. Code Jud. Conduct, Canon 7A.  
Fla. JEAC Ops. 02-07, 06-11  
In re: Nancy Alley, 699 So. 2d 1369 (Fla. 1997)  
In re: John Renke, 933 So. 2d 482 (Fla. 2006)
The Judicial Ethics Advisory Committee is expressly charged with rendering advisory opinions interpreting the application of the Code of Judicial Conduct to specific circumstances confronting or affecting a judge or judicial candidate.

Its opinions are advisory to the inquiring party, to the Judicial Qualifications Commission and to the judiciary at large. Conduct that is consistent with an advisory opinion issued by the Committee may be evidence of good faith on the part of the judge, but the Judicial Qualifications Commission is not bound by the interpretive opinions by the committee. See Petition of the Committee on Standards of Conduct Governing Judges, 698 So. 2d 834 (Fla. 1997). However, in reviewing the recommendations of the Judicial Qualifications Commission for discipline, the Florida Supreme Court will consider conduct in accordance with a Committee opinion as evidence of good faith. Id.

Participating Members:

Participants Members (Elections Subcommittee): Judge T. Michael Jones, Judge Michael Raiden (Subcommittee Chair), Judge Richard Townsend

For further information, contact: Judge Lisa Davidson, Chair, Judicial Ethics Advisory Committee, The Moore Justice Center, 2825 Judge Fran Jamieson Way, Viera, FL 32940

Copies furnished to:

Inquiring judge (Name of the Inquiring Judge deleted)
Justice Peggy Quince