

ADVISORY COMMITTEE  
ON STANDARDS OF JUDICIAL CONDUCT

OPINION NO. 3 - 2024

RE: Propriety of a part-time Municipal Bonding Judge working as a part-time utility clerk for the same municipality in which the judge serves.

FACTS

A part-time Municipal Judge, who handles bond hearings, inquires into the propriety of accepting part-time employment as a utility clerk for the same municipality in which the judge serves.

CONCLUSION

A part-time Municipal Bonding Judge may accept employment as a part-time utility clerk for the same municipality in which the judge serves.

OPINION

A part-time Municipal Judge, or “Continuing Part-Time Judge,” is not subject to all of the canons regulating judicial conduct. S.C.A.C.R. 501, Application of the Code of Judicial Conduct (D). Specifically, a part-time magistrate is exempted from Canon 4C(2), permitting the acceptance of governmental positions only in limited circumstances. S.C.A.C.R. 501, Canon 4C(2). For part-time judges, the Code of Judicial Conduct recognizes the needed balance between the jealous guarding of judicial impartiality and permitting part-time judges to earn a living.

In Opinion 2-1999 we considered whether a part-time municipal judge could continue employment in the Sheriff’s Department. We noted that the Canons require judges to refrain from business dealings that “involve him [or her] in frequent transactions with lawyers or persons likely to come before the court on which he [or she] serves.” S.C.A.C.R. 501, Canon 5C(1). Furthermore, all judges remain subject to the general restrictions that a judge avoid the appearance

of impropriety. S.C.A.C.R. 501, Canon 2. We found that the judge could continue employment but that, if a member of the sheriff's department were to appear before the Municipal Court, then a recusal would be required.

In Opinion 5-1986,<sup>1</sup> we considered whether a part-time magistrate could accept employment for the Department of Social Services. We found that a part-time judge could accept such employment, noting that the judge's employment would not interfere with his judicial duties, detract from the dignity of the office, or involve him in matters that would require frequent recusals.

Under Canon 4 and the previous opinions, we conclude that a part-time municipal judge may work for a utility in the same municipality without violating the Canons. However, should an employee of the utility appear before the Municipal Judge, the judge should use the disqualification and remittal of disqualification procedures set for in Canons 3E and 3F. If frequent recusals occur, then the judge should reconsider the employment.

s/ Usha Jeffries Bridges  
USHA JEFFRIES BRIDGES, CHAIR

s/ William H. Seals, Jr.  
WILLIAM H. SEALS, JR.

s/ Ariail E. King  
ARIAIL E. KING

May 28, 2024

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<sup>1</sup> While that opinion was decided under a previous version of the rules, the analysis and conclusion still apply.