

ADVISORY COMMITTEE ON
STANDARDS OF JUDICIAL CONDUCT

Opinion No. 5 - 2019

RE: Propriety of a magistrate judge serving on a domestic violence fatality review committee.

FACTS

By state statute, South Carolina has created a domestic violence fatality review committee. Each circuit solicitor is to establish a circuit-wide committee to assist local agencies in identifying and reviewing domestic violence deaths. The committee will develop a protocol to be used as a guideline to assist coroners and others who perform autopsies in determining whether domestic violence contributed to the death, or occurred prior to the death, etc. The committee will also make recommendations to the Domestic Violence Advisory Committee on training for various agencies, the need for changes to any statute or regulation, education of the public, and other matters.

CONCLUSION

The magistrate may not serve on a circuit-wide committee that reviews domestic violence fatalities.

DISCUSSION

A judge shall not accept appointment to a governmental committee or commission or other governmental position that is concerned with issues of fact or policy on matters other than the improvement of the law, the legal system, or the administration of justice. Rule 501, Canon 4(C)(2), SCACR. Under the guidance of this Canon, this Committee has addressed similar issues, and with one exception, has found that a judge should not serve on a committee that addresses domestic violence issues. See Opinions, 3-1987; 12-2008; 30-1994; 16-2000; and 16-2004.

Here, just as in the situation presented in Opinion No. 12-2008, the members of the

committee council will not only be working with, but also, selected by the circuit solicitor to address issues other than matters of law and the legal system. While judges receiving extra-judicial appointments often render valuable services, judges should not accept governmental appointments that are likely to interfere with the effectiveness and independence of the judiciary. Rule 501, Canon 4(C) (2) Commentary, SCACR. Furthermore, a judge shall avoid impropriety and the appearance of impropriety in all of the judge=s activities. Rule 501, Canon 2, SCACR. In addition to working with the circuit solicitor, which could create the appearance of partiality or impropriety, the judge’s fellow committee members are likely to include law enforcement officers, who will also appear before the magistrate court. This again creates the appearance of impropriety and partiality. In addition, one of the purposes of the committee is to recommend changes to statutes and regulations. In Advisory Opinions No. 30-1994 and No. 16-2000, this committee reasoned that neither a magistrate nor a family court judge may serve on a government appointed committee which addresses problems of family and domestic violence because it involved the promotion of legislation which could lead to the appearance of impropriety.

Thus, in keeping with the previous opinions, our conclusion is that the judge should not accept the appointment to the domestic violence fatality review committee.

S/ LETITIA H. VERDIN
LETITIA H. VERDIN, CHAIR

S/ USHA JEFFERIES BRIDGES
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S/ KEITH M. BABCOCK
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March 14, 2019.