

ADVISORY COMMITTEE  
ON STANDARDS OF JUDICIAL CONDUCT

OPINION NO. 09-2002

RE: The propriety of a full-time magistrate participating in the campaign activities of his or her spouse.

FACTS

An inquiry is made into whether or not a full-time magistrate may appear in a family photo that will be used in a political ad during the campaign of the magistrate's spouse. All family members will be in the photo and no reference to the magistrate's position will be used. In addition, an opinion is requested regarding the propriety of a full-time magistrate driving a truck while the spouse sets out campaign signs. The magistrate has not participated in soliciting the landowners, but is merely participating as a driver during his own time.

CONCLUSION

A full-time magistrate may appear in a family photo to be used in a spouse's political campaign and may drive the truck so that the spouse can set out campaign signs.

OPINION

While "a judicial candidate must encourage members of his or her family to adhere to the same standards of political conduct in support of the candidate that apply to the candidate, *family members are free to participate in other political activity.*" Rule 501, SCACR, Canon 5(A)(3), Commentary. Thus, a magistrate's spouse can run for office and post campaign signs. Regarding the magistrate's participation, the Canons prohibit a judge from publicly endorsing a candidate for public office. Canon 5(A)(1)(b). However, the Canons also note that "Complete separation of a judge from extra-judicial activities is neither possible nor wise; a judge should not become isolated from the community in which the judge lives." Commentary, Canon 4. Therefore, a magistrate can appear in a family photo that is used in a campaign advertisement, as long as the magistrate is not identified in any way by the use of the words "magistrate," "judge," "honorable" or other references to title.<sup>(1)</sup> Furthermore, the magistrate is permitted to drive the truck on his own time while the magistrate's spouse posts campaign signs. These actions indicate the magistrate's participation as a spouse, and do not constitute endorsement of a candidate for public office.

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A. CAMDEN LEWIS, CHAIRMAN

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JAMES A. SPRUILL, III

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HOWARD P. KING

May \_\_\_\_\_, 2002.

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1. In interpreting Rule 506, Canon 7, and Rule 508, governing the activities of law clerks and other judicial employees, this Committee concluded that a law clerk may appear in a photo or ad for a spouse's political campaign, as a member of the family, not as a supporter or endorser of the candidate. See, Advisory Opinion 5-1999. The rules governing law clerks are similar to those contained in Rule 501, Canon 5, and the same reasoning applies.