

**ADVISORY COMMITTEE ON STANDARDS OF JUDICIAL CONDUCT  
OPINION NO. 10 - 2023**

RE: Propriety of a Chief Municipal Court judge monitoring the budget and processing expenditures for a Sheriff's Office in another state.

Propriety of a Chief Municipal Court judge acting as an official for high school football and basketball games.

**FACTS**

A recently appointed full-time Chief Municipal Judge previously worked as the Captain of Administration in Sheriff's office in another state. The judge retired from that employment in 2017. As Captain of Administration, the judge was responsible for the budget of the Sheriff's Office. Upon retirement the judge continued to work part-time for the Sheriff handling the budget. The judge does all of the work remotely. The Sheriff handles all negotiations with the County Administrator and County Commissioners. Once the budget is approved and the new fiscal year commences, the judge monitors the budget to ensure that expenditures have been coded to the correct account. The judge does not approve or disapprove any expenditures as that is solely the responsibility of the Sheriff's Command staff. The judge mainly keeps the Sheriff apprised of the status of the budget during the year and alerts the Sheriff of any issues with particular accounts. The judge is not involved in any criminal or civil enforcement, investigation, or personnel decisions. Since retirement in 2017, the judge is not involved in any court cases and is not called as a witness or complainant in civil or criminal actions. The judge inquires as to whether the judge can continue this part-time employment.

In addition, the judge also officiates at high school football and basketball games. The judge is paid per game by the high school where the game takes place. The judge plans to officiate

football games in North Carolina and basketball games in South Carolina and asks if doing such violates any of the Canons.

### **CONCLUSION**

A municipal judge may also be employed as a budget supervisor for an out-of-state Sheriff's Office.

A municipal judge may act as an officiant at high school football and basketball games.

### **OPINION**

We have previously found that a full-time judge may engage in remunerative activity that does not conflict with judicial duties or give the appearance of impropriety. See, Op. 1-1993 (finding a probate judge could be employed part-time as a bookkeeper). We noted that the compensation paid to the judge should be the same that a non-judicial person would receive for the same activity. Thus, there is no outright ban on the judge being employed as a budget supervisor.

However, we must determine if there is any appearance of impropriety created through part-time employment by a Sheriff's Office. In Opinion 2-1999, we considered whether a part-time municipal judge could continue employment in the Sheriff's Department in the same county. We found that the judge could do so, provided that the judge recuse himself/herself, without the possibility of remittal, if any member of the Sheriff's Department were to appear before the court. This was necessary to avoid the appearance of partiality or impropriety. We also warned that the judge must consider the degree to which employment by the Sheriff's Department would lead to close relationships with municipal police and therefore lead to the public to question the judge's impartiality.

Here, the judge's other employment is with a Sheriff's Office in another state. The out-of-state Sheriff and his or her employees are not likely to appear in a Municipal Court in South Carolina. Moreover, the judge is not involved in any investigations or court proceedings for that Sheriff, but merely handles some administrative budgetary matters for the Sheriff's Office, and the work is performed online/virtually. The public is unlikely to even know about this employment. Thus, it is unlikely that the judge's employment will require frequent recusals or cause the judge's impartiality to be questioned.

With regard to officiating high school football and basketball games, again, the judge is allowed to engage in remunerative activity, provided the compensation paid to the judge does not exceed the same that would be paid to a non-judicial person. Further, officiating does not appear to conflict with judicial duties or give the appearance of impropriety. However, should persons with whom the judge frequently interacts or has personal knowledge of appear in the municipal court, the judge may be required to disqualify himself or herself under Canon 3E and follow the remittal of disqualification procedures under Canon 3F.

Finally, the judge is a full-time Chief Judge seeking information about two additional, extra-judicial employment activities. It appears based on the facts provided that the judge can engage in this employment outside of regular working hours without interfering with the full-time duties of a municipal judge. However, should this employment require the judge to perform work during his or her regular working hours as a full-time judge, the judge may have to forfeit such outside employment.

s/ Usha Jeffries Bridges  
USHA JEFFRIES BRIDGES, CHAIR

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

s/ Keith M. Babcock  
KEITH M. BABCOCK

September 15, 2023