

ADVISORY COMMITTEE
ON STANDARDS OF JUDICIAL CONDUCT

OPINION NO. 11 - 2023

RE: Propriety of a part-time municipal judge also being employed as a part-time prosecutor in another city within the same county.

FACTS

A recently appointed municipal judge has inquired about continued service as a part-time city prosecutor. The city in which the judge will preside is in a different city from which the judge acts as a city prosecutor but the towns are in the same county and not distant geographically.

CONCLUSION

A part-time municipal judge should not continue employment as a part-time prosecutor in another city within the same county.

OPINION

Canon 3C(1) states that a judge should disqualify himself or herself if their impartiality might be reasonably be questioned. Canon 2 states that a judge should avoid the appearance of impropriety in all activities and conduct himself/herself in a manner that promotes the public confidence in the impartiality of the judiciary.

Based on these Canons, this Committee determined in Opinion 3-1991, that an assistant city recorder could not continue employment as a prosecutor for another city in the same county. We noted that a defendant could reasonably question the impartiality of a judge who serves as a prosecutor for another city. This is especially applicable where the two cities are closely located.

This opinion can be distinguished from Opinion 8-1999¹ in which we found that a part-time municipal judge could also be employed as a circuit court solicitor. However, in that matter, the assistant solicitor position was in a different circuit—one that did not include the county (and therefore the city) in which the judge served on the municipal court. We did caution the judge in that matter that if serving in both positions caused frequent recusals, the judge should reassess the appropriateness of continuing in both positions.

s/ Usha Jeffries Bridges
USHA JEFFRIES BRIDGES, CHAIR

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

s/ Keith M. Babcock
KEITH M. BABCOCK

October 9, 2023

¹ In a later opinion, No. 7-2021, we found that a part-time municipal judge should not continue employment as an assistant solicitor in the same circuit/county as the municipal court.