

ADVISORY COMMITTEE  
ON STANDARDS OF JUDICIAL CONDUCT

OPINION NO. 13 - 2018

RE: Propriety of a magistrate judge hiring the son of another magistrate (who presides in the same county) as a constable.

FACTS

A magistrate has recently interviewed several candidates for a constable position. One of the applicants is the son of another magistrate in the same county. The judge inquires as to the propriety of employing the magistrate's son as a constable.

CONCLUSION

A magistrate may not hire, as constable, the son of another magistrate from the same county.

OPINION

Under S.C. Code § 22-9-10, a magistrate may appoint one person to discharge the duties of constable for the jurisdiction. The constable's duties include executing all legal orders directed to him/her by the governing bodies of the county in which he or she serves; attending any of the circuit courts if required by the sheriff and performing the appropriate duties assigned to him or her by the sheriff or presiding judge; executing all process legally directed to him by appropriate authorities; and levying executions. S.C. Code §§ 22-9-60 to -110. Canon 3C(4) provides that "[a] judge shall exercise the power of appointment impartially and on the basis of merit. A judge shall avoid nepotism and favoritism." Canon 2A provides that "[a] judge shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary."

While the son of the other magistrate may be a qualified applicant for the position of constable, the fact that the applicant's parent is a magistrate in the same county as the inquiring judge gives the appearance of nepotism or favoritism. Thus, to avoid the appearance of impropriety, the judge should not offer the constable position to the son of another magistrate in the county.

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

S/ Usha Jefferies Bridges  
USHA JEFFERIES BRIDGES

S/ Keith M. Babcock  
KEITH M. BABCOCK

September 20, 2018.