

ADVISORY COMMITTEE
ON STANDARDS OF JUDICIAL CONDUCT

Opinion No. 17-2008

RE: Propriety of a judge (Circuit or Family Court) speaking on the need for a new judicial center and the sales tax referendum to fund the construction.

FACTS

The inquiring judge is located in a circuit that needs a new judicial center. A penny sales tax has been set for referendum vote in November. The penny sales tax is expected to raise \$70 million, with approximately \$20 million to be allocated for the new judicial center. The inquiring judge has been asked to speak at various civic clubs as an advocate for the necessity of a new judicial center and the sales tax, and seeks an opinion in the propriety of doing so.

CONCLUSION

A Circuit Court or Family Court judge may speak as an advocate for a new judicial center and the sales tax needed to fund the construction.

DISCUSSION

A judge is permitted to speak on the law, the legal system, or the administration of justice, subject to other requirements of the Code. Canon 4. B., Rule 501, SCACR. Canon 5.D. states that a judge shall not engage in any political activity unless authorized by the Code or law, or on behalf of measures to improve the law, the legal system or the administration of justice. This Committee has not addressed a similar situation to the facts presented here. However, a review of judicial advisory opinions in states that have addressed similar situations indicates that a judge may speak to a civic group on such a referendum.

The Washington State Ethics Advisory Committee noted that, like South Carolina, that state's judicial canons prohibited political activity unless on behalf of measures to improve the administration of justice. Wash. Op. No. 94-10 and 00-03. That committee concluded that a bond levy to fund construction or retrofitting of a courthouse was a measure to improve the administration of justice. *Id.* The Washington committee specifically found that a judge could speak to groups such as PTAs, Rotary, or Chamber of Commerce to promote the levy and new court facility. Op. No. 94-10. Likewise, the Arkansas Advisory Committee addressed the extent of a judge's permissible involvement in a referendum to increase the sales tax to pay for a courthouse and jail. Ark. Op. No. 94-01. In that opinion, the Arkansas Committee concluded that issues involving courthouses and funding had traditionally been included within the scope of "the administration of justice" and found that the judicial canons did not prohibit a judge from a taking a public stand on the proposed sales tax, whether such opinion was in favor of, opposed to, or indifferent. *See also, Kan. Op. No. JE-87* (judges of the county are permitted to appear before civic and religious groups to promote the passage of a sales tax for the construction a new judicial center).

We find these opinions persuasive. Therefore, a judge, whether Circuit Court or Family Court, may speak to civic groups advocating a new courthouse and the sales tax referendum, as such activity falls within the scope of "the administration of justice."

A. CAMDEN LEWIS, CHAIRMAN

JAMES A. SPRUILL, III

G. EDWARD WELLMAKER

_____, 2008.