STATE OF NEVADA

STANDING COMMITTEE ON JUDICIAL ETHICS AND ELECTION PRACTICES

DATE ISSUED: July 18, 2006

OPINION: JE06-007

DISCUSSION

Canon 2B of the Nevada Supreme Court Rules provides:

A judge shall not testify voluntarily as a character witness.

The commentary to 2B expresses concern that a judge voluntarily testifying as a character witness would lend the prestige of the office to the litigant. The commentary also discusses the “awkward position” of the lawyer cross-examining a jurist in front of whom he/she may regularly appear and concludes that the subpoenaed judge should “discourage” a party from requiring that the judge testify as a character witness.

On the other hand, Canon 2A provides:

A judge shall respect and comply with the law and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

The commentary to 2B also states:

A judge may, however, testify when properly summoned.

Reading these two subsections and their commentary together, and applying the case law of other states, while a judge is precluded from voluntarily testifying as a character witness, a judge has an obligation to comply with a lawful subpoena. The
Committee strongly urges any jurist who believes there is the possibility of being asked to provide character evidence when responding to a subpoena to seek the assistance of the Nevada Attorney general’s office. The jurist would ask the A.G. to move the presiding judge to quash the subpoena.

**CONCLUSION**

Canon 2A requires a jurist to answer to a lawful subpoena to give testimony at a judicial proceeding. However, Canon 2B precludes a judge from giving character evidence when serving as a witness. To avoid conflict between these provisions, a judge served with a subpoena which he/she believes may elicit character evidence should seek the assistance of the Attorney General in quashing such a subpoena. When, however, the jurist has no such concerns, he/she is obligated to testify at the trial or hearing as would any other citizen.

**REFERENCES**


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1 Jurists in courts of limited jurisdiction can turn to their respective city or county attorneys office.