STATE OF NEVADA

STANDING COMMITTEE ON
JUDICIAL ETHICS AND ELECTION PRACTICES

DATE ISSUED: August 31, 2007

OPINION: JE07-010

PROPRIETY OF A JUVENILE PROBATION OFFICER SERVING AS A JUSTICE OF THE PEACE PRO-TEM.

ISSUE

Does a juvenile probation officer serving as a justice of the peace pro-tem violate judicial canons?

ANSWER

No.

FACTS

This written request came from the office of the justice of the peace in a rural county. It asked whether a non-lawyer officer of the county juvenile probation division could serve temporarily as a justice of the peace.

The official in question had been a sheriff's deputy for 12 years before transferring in 2005 to the juvenile probation division. The chief district court judge in the county is in charge of the juvenile probation division.

DISCUSSION

The Nevada Canon of Judicial Conduct 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.

Canon 3 E(1)(a) provides:

A judge shall disqualify himself or herself in a proceeding in which the judge’s impartiality might reasonably be questioned.

Applying these 2 (two) Canons, the Committee was concerned there might be the appearance of impropriety or partiality if this officer heard criminal cases involving either individuals he had dealt with as a deputy or people he had supervised as juveniles who had now aged out into the adult criminal system.

To avoid such appearances, the Committee instructs the official in question to disqualify himself in any case involving a defendant he had come into contract with either as a deputy or a juvenile probation officer. If disqualification is not possible, the officer has, at minimum, an obligation to fully disclose any past dealings with
CONCLUSION

The Committee found the juvenile probation officer could serve as a justice of the peace pro-tem, but only if he complied with Canons 2A and 3 E(1)(a) and disqualified himself when necessary or fully disclosed if he could not recuse.

REFERENCES


This opinion is issued by the Standing Committee on Judicial Ethics and Election Practices. It is advisory only. It is not binding upon the courts, the State Bar of Nevada, the Nevada Commission on Judicial Discipline, any person or tribunal charged with regulatory responsibilities, any member of the Nevada judiciary, or any person or entity which requested the opinion.

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