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CLERK OF SUPREME COURT

**STATE OF NEVADA**

**STANDING COMMITTEE ON  
JUDICIAL ETHICS AND ELECTION PRACTICES**

BY \_\_\_\_\_  
DEPUTY CLERK

**DATE ISSUED: August 12, 2010**

**ADVISORY OPINION: JE10-007**

PROPRIETY OF A JUDGE DISPLAYING  
A CANDIDATE SUPPORT SIGN FOR  
ANOTHER CANDIDATE FOR PUBLIC  
OFFICE

**DISCUSSION**

**ISSUE**

May a judge display a candidate support sign for another candidate for public office on his or her residential property or other property readily identified in the community as being owned by the judge?

Canon 4 states that "A judge or candidate for judicial office shall not engage in political or campaign activity that is inconsistent with the independence, integrity or impartiality of the judiciary." More specifically, Rule 4.1(A)(3) provides that "a judge or judicial candidate shall not: ... (3) publicly endorse or oppose a candidate for public office." The Committee's opinion on this issue turns on whether, under the facts presented here, a judge would be considered as implicitly or explicitly "publicly endorsing" a candidate by displaying a candidate support sign at the judge's personal residence or on other property readily identified as owned solely by the judge.

**ANSWER**

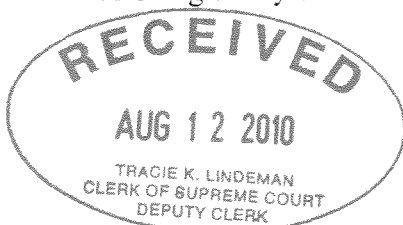
No. Displaying a candidate support sign under these circumstances would run afoul of Rules 1.3 and 4.1, which prohibit a judge from endorsing candidates for public office.

In Advisory Opinion JE10-005, the Committee recently discussed the scope of the endorsement clause in Rule 4.1. As recognized in that opinion,

**FACTS**

A justice of the peace asks whether a judge may display a candidate support sign for another candidate for public office on property owned by the judge. For purposes of this opinion, the Committee has assumed that the property upon which the candidate support sign would be displayed is either the judge's personal residence or is other property readily identified in the community as being solely owned by the judge.

Rule 4.1 specifically prohibits a judge from publicly endorsing or publicly opposing a candidate for public office. The prohibition applies to all endorsements, whether by action or words, and is



absolute in application. As recognized in the Comments to Rule 4.1, “this Canon imposes narrowly tailored restrictions upon the political and campaign activities of all judges and judicial candidates” for the purpose of “prevent[ing] them from abusing the prestige of judicial office to advance the interests of others.” Rule 4.1, Comment 1 and 3; see also Rule 1.3. The Committee notes that nothing in this opinion implicates a judge’s ability “to participate in the political process as a voter . . . and contribute personal funds to a candidate or political organization.” *See* comment 3, Rule 4.1.

*Advisory Opinion JE10-005*

The Committee finds that displaying candidate support signs on a judge’s residential property or property readily identified as being solely owned by a judge constitutes an impermissible endorsement of candidates for public office contrary to Rule 4.1(A)(3). The Committee notes that this opinion is limited to the facts presented and display of other candidate signs at either the personal residence of the judge or other property owned solely by the judge and which is readily identified in the community as being owned by the judge. The Committee renders no opinion on

circumstances involving other commercial or investment properties in which the judge is a co-owner or in which the property is not commonly recognized as being owned by the judge. The Committee also notes the foregoing conclusion would not apply to the judge’s own campaign signs supporting his or her election or re-election.

Finally, the Committee notes that there is an ongoing debate in other jurisdictions regarding the constitutionality of the endorsement clause contained in Rule 4.1(A)(3). *See Wersal v. Sexton, et. al.*, --- F.3d ---, 2010 WL 2945171, (8<sup>th</sup> Cir., 2010). To the extent such issues may arise in the future under Nevada’s Revised Code of Judicial Conduct, the Committee believes such constitutional questions are best addressed by courts of appropriate jurisdiction.

**CONCLUSION**

It is the opinion of the Committee that Canons 1 and 4, specifically Rule 1.3 and 4.1(A)(3), prohibit a judge from displaying a candidate support sign for another candidate at the judge’s personal residence or on other property owned solely by the judge which is readily identified in the community as being owned by the judge.


**REFERENCES**

Revised Nevada Code of Judicial Conduct, Canon 1; Canon 4; Rule 1.3; Rule 4.1(A)(3); Commentary to Rule 1.3; Rule 4.1;

Comment 1 and 3 to Rule 4.1; Advisory Opinion JE10-005; *Wersal v. Sexton, et. al.*, --- F.3d ----, 2010 WL 2945171, (8<sup>th</sup> Cir., 2010).

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*This opinion is issued by the Standing Committee on Judicial Ethics and Election Practices. It is advisory only. It is not binding on 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 requesting the opinion.*

  
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