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STATE OF NEVADA  
STANDING COMMITTEE ON  
JUDICIAL ETHICS AND ELECTION PRACTICES

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OPINION: JE06-004

PROPRIETY OF A JUSTICE OF THE PEACE SERVING AS AN UNPAID CONSULTANT TO THE SHERIFF'S DEPARTMENT FROM WHICH OFFICERS APPEAR IN HIS COURT ON CRIMINAL MATTERS.

ISSUE

May a justice of the peace serve as an unpaid consultant to implement a new communications system for the county in which he serves, when the county sheriff's department administers the system?

ANSWER

No.

FACTS

The request letter asks whether a justice of the peace serving as an unpaid consultant to complete a communications system in his county may be susceptible to ethical questions or issues of conflict of interest. The system is being administered by the sheriff's department in the county and is intended to connect the county to other regional jurisdictions. The sheriff asked the judge to work on the project, because he had started it while still employed as an officer with the department. The justice of the peace is not paid for his consulting work, but is provided with an unmarked vehicle from the sheriff's office to use for travel associated with project meetings.

DISCUSSION

Canon 4A(1) of the Nevada Supreme Court Rules prohibits judges from engaging in extra-judicial activities which may raise the issue of whether there is an appearance that the judge is not impartial.

While the commentary to the Canons encourages judges to avoid isolation from civic activity, the Canons limit such activity if it may raise issues regarding fairness or impartiality in the minds of attorneys or defendants appearing before the judge. The justice of the peace in question, as is the case with other justices of the peace in Nevada, routinely presides over criminal matters. A significant share of these cases involve, in one role or another, members of the local sheriff's department. The judge's continued involvement with the sheriff's department may leave him open to claims that he is not impartial.

Canon 4A(1) provides:

A. *Extra-judicial activities in general.*

A judge shall conduct all of the judge's extra-judicial activities so that they do not:

(1) cast reasonable doubt on the judge's capacity to act impartially as a judge;

It would be possible for the judge to

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offer to recuse in criminal matters involving the sheriff's department. However, such disqualifications may be frequent, leading to undue delay while an alternate judge travels to this court, as well as additional costs.

In the view of the Committee, the justice of the peace is to be commended for his community service in such an endeavor. However, after taking the bench the judge must be held to a higher standard and, unfortunately, must withdraw from a worthwhile activity which may create an appearance of impropriety and a risk of conflict with judicial obligations. A judge's outside activities should not cast reasonable doubt on the judge's capacity to act impartially or on the appearance of a fair judiciary. Where it could be reasonably argued that a continued close association with a law enforcement agency and former employer of the judge could undermine public confidence in the integrity and impartiality of the judiciary, the outside activity must give way to the demands of judicial office and the ethical restrictions that attend the office.

#### **CONCLUSION**

Canon 4A(1) requires a justice of the peace to avoid extra-judicial activities which may cast reasonable doubt on the judge's capacity to act impartially. The Committee realizes the Canons recognize that judges should not become isolated from the communities in which they live. We are mindful of the limited resources in


rural counties and the efficiencies that could be gained by allowing this well-intentioned judge to continue his work on the communications project. However, involvement in civic affairs must not open the judge to questions about this impartiality or to a conflict of interest. Given the frequency with which the sheriff's department appears before this judge, his continued involvement with the department could objectively raise questions about his impartiality. As a result, the judge must discontinue his work as an unpaid consultant. The public's entitlement to an independent judiciary and the need for a clear separation of powers requires no less.

#### **REFERENCES**

Nevada Code of Judicial Conduct, Canon 4A(1) and Commentary Canon 4A.

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