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TRACIE K. LINDEMAN
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STATE OF NEVADA
STANDING COMMITTEE ON
JUDICIAL ETHICS AND ELECTION PRACTICES

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PROPRIETY OF A JUDGE SERVING
ON THE STATE DOMESTIC
VIOLENCE COUNCIL

awareness and reviews domestic justice issues for rural Nevada. At least three (3) former judges serve on the panel, along with two (2) district court judges and one (1) municipal judge.

ISSUE

DISCUSSION

May a recently elected justice of the peace continue to serve on the Nevada Council for the Prevention of domestic Violence?

The Nevada Code of Judicial Conduct Canon 4A(1) provides:

ANSWER

A judge shall conduct all of the judge's extra-judicial activities so that they do not cast reasonable doubt on the judge's capacity to act impartially as a judge;

Yes, with full disclosure.

FACTS

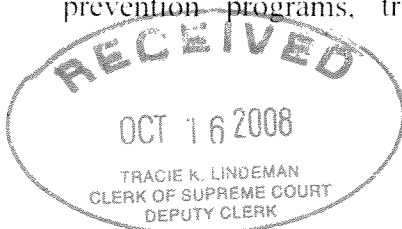
Further, Canon 4C(2) states:

This written request came from a Justice of the Peace who had served on the Nevada Council for the Prevention of Domestic Violence (the "Council") prior to being elected to the bench. She addressed the justice courts' jurisdiction over criminal trials on domestic violence and destruction of property, violations of domestic violence protection orders, preliminary hearings on felony domestic violence and sexual assault cases and civil law applications for protective and stalking orders. The jurist also explained that the Nevada Attorney General houses the Council and appoints its members. According to the jurist, the Council is an advisory group which makes recommendations for domestic violence legislation, provides financial support to prevention programs, tries to increase

A judge shall not accept appointment to a governmental committee or commission or other governmental position that is concerned with issues of fact or policy on *matters other than the improvement of the law, the legal system or the administration of justice.*

The American Judicature Society explored this issue in 2002, along with the State Justice Institute, in the form of an essay by Cynthia Gray, Director of the Center for Judicial Ethics:

When Canon 4A(1) and Canon 4C(2) are read together, a judge's



participation on a particular commission depends on the answers to two questions: (1) Does the work of the commission concern “the improvement of the law, the legal system, or administration of justice”? and (2) Would participation on the commission “cast reasonable doubt” on a judge’s capacity to act impartially?

Opinions from the judicial advisory groups in other states focus on the second question. In several instances, these bodies have advised judges not to serve on domestic violence task forces or groups when the entities had fixed agendas advocating specific positions or legislation.

In exploring the questions in this instance, the Nevada Commission came to the conclusion the Council, as an advisory body, is focused on the general improvement of the law and legal services, not on advocacy for fact-specific issues or cases. As to the second question, the Commission found the Justice of the Peace must disclose her membership on the Council in instances in her court where she believes her participation may “cast reasonable doubt” on her impartiality when dealing with domestic violence.

When considering the historical perspective, James J. Alfani, President, South Texas College of Law, found in “Judicial Conduct and Ethics, Fourth Edition”, p. 9-5 § 9.02A: “Debates about

judicial participation on governmental law reform commissions have occurred since the nationals conception.” and “The exception [to the model Code of Judicial Conduct] for law-related appointments is broad enough to accommodate most activities where judicial participation is essential” p. 9-8. The Committee agreed with such an application in this instance.

It is also worth noting that the 4B Commentary encourages a judge to rely on his/her status as a “person specially learned in the law” who is in a “unique position to contribute to the improvement of the law, the legal system, and the administration of justice,” Applying this rationale, the Committee does not wish to discourage appropriate judicial participation on advisory boards and commissions.

CONCLUSION

The Committee found the Justice of the Peace may continue to serve on the Nevada Council for the Prevention of Domestic Violence, so long as she discloses this involvement in domestic cases where she believes it may “cast reasonable doubt” on her impartiality.

REFERENCES

Nevada Code of Judicial Conduct, Canon 4A(1) and C(2); 2002 essay by Cynthia Gray, Director of the Center for Judicial Ethics, for the American Judicature Society and the State Justice Institute: “Judicial Conduct and Ethics, Fourth Edition”; Florida Committee on Standards of

Conduct Governing Judges, Opinions 95-14, 94-38 and 33; Arizona Supreme Court Judicial Ethics Advisory Committee, Advisory Opinion 97-03; Washington Ethics Advisory Committee Opinion 96-02; Colorado Supreme Court Judicial Ethics Advisory Board, Advisory Opinion 2005-04; Vermont Judicial Ethics Committee, Opinion 2728-12; New Mexico Advisory Committee on the Code of Judicial Conduct, Advisory Opinion No. 02-06; Nebraska Ethics Advisory Opinion 97-6; Alaska Commission on Judicial Conduct, Advisory Opinion #2001-01.

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Kathleen M. Paustian

Committee Vice-Chairperson