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STATE OF NEVADA

STANDING COMMITTEE ON JUDICIAL ETHICS

DATE ISSUED: June 25, 2014

ADVISORY OPINION: JE14-003

A NEVADA JUDGE'S SERVICE AS
AN AIR FORCE RESERVE JUDGE
ADVOCATE CONSTITUTES
EXTRAJUDICIAL ACTIVITY

ISSUE

Is a judge engaging in extrajudicial activities within the context of Canon 3 when serving as an officer of the United States Air Force Reserve, regardless of the particular reserve assignment?

ANSWER

Yes, a judge's service as a reservist in the United States Air Force Judge Advocate General's Corps is extrajudicial activity under Canon 3 of the Revised Nevada Code of Judicial Conduct.

FACTS

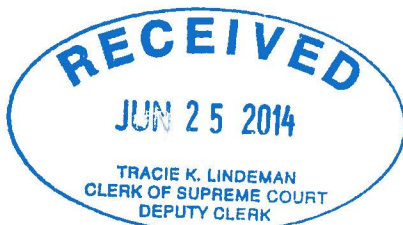
A justice of the peace asks whether a Nevada judicial officer engages in extrajudicial activities when serving as a reserve judge advocate in the United States Air Force. The judge currently serves as an Individual Mobilization Augmentee (IMA) reservist and, as such, is assigned to augment an active duty office when performing reserve duties. In augmenting an active duty office, the reservist may perform duty at various locations around the world at the direction of the Judge Advocate General.

DISCUSSION

The Committee is authorized to render advisory opinions evaluating the scope and applicability of the NCJC. *Rule 5 of the Rules Governing the Standing Committee on Judicial Ethics*. Accordingly, this opinion is limited by the authority granted by Rule 5.

Canon 3 of the NCJC states: "[a] judge shall conduct the judge's personal and extrajudicial activities to minimize the risk of conflict with the obligations of judicial office." Rule 3.1(A) further provides that: "[a] judge may engage in extrajudicial activities, except as prohibited by law or this Code. However, when engaging in extrajudicial activities, a judge shall not: (A) participate in activities that will interfere with the proper performance of the judge's judicial duties." Further, Rule 2.1 provides: "[t]he duties of judicial office, as prescribed by law, shall take precedence over all of a judge's personal and extrajudicial activities."

In a prior opinion, this Committee advised that a sitting judge's service as a reserve member of the Judge Advocate General Corps in another state did not violate Canon 4G (now Rule 3.10) which precludes a judge from practicing law. JE07-007. The opinion, however, did not address the question raised here of whether duties performed as a United States Air



Force Reservist constitute extrajudicial activities.

The NCJC does not expressly define the term “extrajudicial activity.” A reading of the Code as a whole nonetheless makes it clear that extrajudicial conduct includes judicial functions or other activities that are not a part of the judge’s official duties. *See, e.g.*, Rule 3.9 (“A judge shall not act as an arbitrator or a mediator or perform other judicial functions apart from the judge’s official duties unless expressly authorized by law.”) and Rule 2.1 (“The duties of judicial office, as prescribed by law, shall take precedence over all of a judge’s personal and extrajudicial activities.”)

Under the facts presented, the justice of the peace’s service as an officer of the United States Air Force reserve constitutes a judicial function or other activity that is not part of the judge’s official duties. Consequently, the judge’s duties performed as an IMA under the direction of the Judge Advocate General are extrajudicial activities within the meaning of Canon 3. Although Comment [1] to Rule 3.1 encourages judges “to engage in appropriate extrajudicial activities,” the Committee advises that Rule 2.1 expressly imposes an ethical duty to give duties of judicial office priority over all of a judge’s personal and extrajudicial activities and that Rule 3.1(A) precludes a judge from participating in activities that will interfere with the proper performance of the judge’s judicial duties.

CONCLUSION

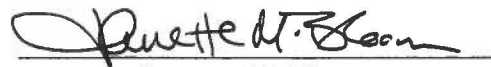
The Committee concludes that a sitting judge’s service in the Judge Advocate General Corps, regardless of assignment,

constitutes extrajudicial activity under Canon 3 of the NCJC. As such, the judges’ reserve service is subject to the NCJC’s limitations on extrajudicial activities expressed in Rules 2.1 and 3.1.

REFERENCES

Revised Nevada Code of Judicial Conduct Canon 3; Rule 2.1; Rule 3.1; Rule 3.9; Comment [1] to Rule 3.1; Nevada Standing Committee on Judicial Ethics Opinion JE07-007 (June 14, 2007).

This opinion is issued by the Standing Committee on Judicial Ethics. 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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