



Connecticut Committee on Judicial Ethics

Informal Opinion Summaries

2018-01 (Emergency Staff Opinion Issued January 23, 2018)

**Appearance of Impropriety; Promoting Public Confidence; Public Statements
Rules 1.2, 1.3, 2.11, & 4.1**

Issue: May a Judicial Official comment on the character of a recently appointed municipal chief of police (hereinafter the "appointee") for use in a profile of the appointee that will appear in a well-known local newspaper?

Facts: Before he/she was on the bench, the Judicial Official worked closely with the appointee as the appointee's supervisor while the Judicial Official was in a senior management position at a state agency. The Judicial Official does not currently sit in the judicial district that includes the police department headed by the appointee, and does not expect that he/she would sit in that judicial district for at least several years. However, because of the location of his/her residence, the Judicial Official occasionally rules on applications for ex parte warrants from the police department in question. The Judicial Official noted that it may be possible for his/her judicial title to be omitted from the article. The Judicial Official stated that he/she intended to describe the appointee's character in very favorable terms based upon his/her experience working with the appointee and knowledge of the appointee's background. The appointment process for this particular municipality requires that a candidate for chief of police be nominated by the mayor and confirmed by the city council.

Relevant Code Provisions: Rule 1.2 states that a judge "should act at all times in a manner that promotes public confidence in the independence, integrity and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety. The test for appearance of impropriety is whether the conduct would create in reasonable minds a perception that the judge violated this Code or engaged in other conduct that reflects adversely on the judge's honesty, impartiality, temperament, or fitness to serve as a judge."

Rule 1.3 states that a judge "shall not use or attempt to use the prestige of judicial office to advance the personal or economic interests of the judge or others or allow others to do so."

Rule 2.11(a) states in part that a judge "shall disqualify himself or herself in any proceeding in which the judge's impartiality might reasonably be questioned...."

Rule 4.1 states in relevant part as follows:

- (a) Except as permitted by law, or by Rules 4.2 and 4.3, a judge shall not:
- (3) publicly endorse or oppose a candidate for any public office...
- (8) make any statement that would reasonably be expected to affect the outcome or impair the fairness of a matter pending or impending in any court...
- (c) A judge should not engage in any other political activity except on behalf of measures to improve the law, the legal system, or the administration of justice.

Response: This inquiry was circulated to the Committee members and their input was solicited and received. Although the Committee has not previously considered this precise issue, its prior opinions have cautioned judicial officials against engaging in activity that could create the impression of partiality to law enforcement. In [JE 2017-09](#), the Committee considered whether a Judicial Official could keep a license plate that identified the Judicial Official as a retired police commissioner. The Committee determined that the Judicial Official should not display the retired police commissioner license plate on his or her personal vehicle "because it violates Rule 1.2's requirement that a judge shall avoid impropriety or the appearance of impropriety and because it may unintentionally create the impression of partiality to law enforcement." Similarly, in [JE 2010-16](#), the Committee concluded that a Judicial Official should not accept honorary lifetime membership in a law enforcement alumni association "in view of the high likelihood of members of the association appearing before the Judicial Official and, in general, the impression of partiality to law enforcement that may be unintentionally created." See also [JE 2014-13](#) (Judicial Official that was social acquaintance of a municipal police chief should not preside over cases involving the police department, including ex parte proceedings, for a period of two years from the last date of social contact); [JE 2013-06](#) (Judicial Official should not be a Facebook "friend" of law enforcement officials).

Based on the facts presented and the above-referenced prior opinions of the Committee, the Judicial Official was advised that he/she should not comment on the appointee's character for a newspaper profile of the appointee. The Committee agreed that laudatory public comments from the Judicial Official regarding the appointee could call into question the Judicial Official's impartiality under Rule 1.2; the Judicial Official could be viewed as using his/her office to advance the interests of the appointee and/or the appointing authority in possible violation of Rule 1.3; under Rule 2.11, the Judicial Official would likely be required to disqualify him/herself from any ex parte proceedings involving the appointee's police department, at least for a period of time; and the Judicial Official's comments may be seen as having impermissible political overtones under Rule 4.1, given that the chief of police is nominated by the mayor in this particular municipality. Finally, the Committee noted that given the relatively high profile of the newspaper and the fact that the Judicial Official's name and former position likely would have been included in the article, it would have been a simple matter for readers to discern the Judicial Official's identity as a judge even if his/her title was not mentioned in the article.