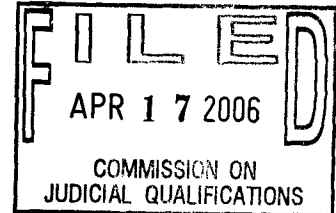




# The Supreme Court of Kansas

KANSAS JUDICIAL CENTER  
301 S.W. 10<sup>th</sup> Ave.  
Topeka, Kansas 66612-1507



## JUDICIAL ETHICS ADVISORY PANEL

### Judicial Ethics Opinion JE 139

April 17, 2006


An announced candidate for district judge asks if he or she may respond to a Kansas Judicial Watch questionnaire. The questionnaire seeks to have the candidate state whether or not in his or her view the Kansas Supreme Court violated the Kansas Constitution in a designated opinion; whether the power to tax and spend the revenues and to define marriage, are the sole prerogative of the Legislature and not the Supreme Court, under the Kansas Constitution; the candidate's views on unisex marriage; the candidate's views on who should define pornography; whether the death penalty should be determined, established or denied by the Kansas Supreme Court; the candidate's views of the rights of an unborn child; and whether any portion of the Kansas Constitution is intended to protect a right to assisted suicide.

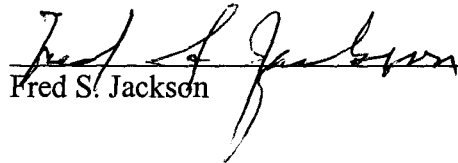
The candidate inquires whether he or she may respond to the questionnaire without violating various provisions of the Canons of Judicial Ethics, and in particular Canons 5A(3)(d)(i) and (ii), 5C(2), and 3E(1). See 2005 Kan. Ct. R. Annot. 555 et seq. The candidate then cites a number of federal cases, including one from the United States Supreme Court, *Republican Party of Minnesota v. White*, 536 U.S. 765 (2002); and a number from the Circuit Courts of Appeal and the District Courts, all of which hold various provisions of state canons unconstitutional.

In effect, the candidate seeks to have us hold that various provisions of the Code of Judicial Conduct, as promulgated by the Kansas Supreme Court, are unconstitutional. This we decline to do. Questions regarding the constitutionality of the Code of Judicial Conduct should be addressed to the courts, not to this panel. Such action is not within our limited power. Rule 650(d), 2005 Kan. Ct. R. Annot. 603, which establishes this Panel, states: "Advisory opinions . . . shall not address issues of law . . . ."

As the Code of Judicial Conduct now stands, it is our opinion that the candidate may not answer the questionnaire. See Canon 5A(3)(d)(i) and (ii).

  
Robert H. Miller, Chairman

  
Adrian J. Allen

  
Fred S. Jackson

**NOTE:** The Commission on Judicial Qualifications respectfully rejects the Panel's conclusion in JE-139. Under Republican Party of Minnesota v. White, 536 U.S. 765, 122 S.Ct 2528, 153 L.Ed.2d 694 (2002), judges and judicial candidates are allowed to publicly announce their views on legal, political, or other issues. The Commission is not bound by advisory opinions.