



The Supreme Court of Kansas

Kansas Judicial Center

Topeka, Kansas 66612-1507

JUDICIAL ETHICS ADVISORY PANEL

Judicial Ethics Opinion JE-64

July 1, 1996

A candidate for the office of District Judge in an elective judicial district submits the following questions. Both the Candidate and the candidate's opposition, an incumbent District Judge, have held various public offices and have made numerous public statements and have publicly taken positions on issues throughout the years. The questions are as follows:

Question 1: In the course of a judicial campaign, may a Candidate reproduce and distribute previous public statements the Candidate or his Opposition has previously made?

Answer: Yes.

Commentary: A candidate for judicial office should be extremely careful to comply with Canon 5A(3) which reads:

"A candidate for a judicial office:

(a) shall maintain the dignity appropriate to judicial office, and act in a manner consistent with the integrity and independence of the judiciary, and shall act in a manner that promotes public confidence in the integrity and impartiality of the judiciary, and shall encourage members of the candidate's family to adhere to the same standards of political conduct in support of the candidate that apply to the candidate."

Question 2: In the course of a judicial campaign, in which one or more of the candidates has held public office, can either candidate make reference to that candidate's record in public office?

Answer: Yes, but see commentary above.

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Question 3: In the course of a judicial campaign, can a candidate make public reference to endorsements that he or his opponent has received from individuals or organizations?

Answer: Yes.

Question 4: In the course of a judicial campaign, can a candidate make rhetorical reference to the kind of judge he will or won't be, or who might or might not be willing to support him?

Answer: No. This is controlled by Canon 5A(3)(d), 95 Kan. Ct. R. Annot. 417, 418, which reads:

"3 A candidate for a judicial office

"(d) shall not

"(i) make pledges or promises of conduct in office other than the faithful and impartial performance of the duties of the office;

(ii) make statements that commit or appear to commit the candidate with respect to cases, controversies or issues that are likely to come before the court; ..."

The Commentary to this section, 95 Kan. Ct. R. Annot. 418, is also helpful. It reads in part:

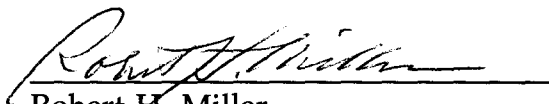
"Section 5A(3)(d) prohibits a candidate for judicial office from making statements that appear to commit the candidate regarding cases, controversies or issues likely to come before the court. As a corollary, a candidate should emphasize in any public statement the candidate's duty to uphold the law regardless of his or her personal views."

Question 5: If, in the opinion of the Judicial Ethics Advisory Panel, any of the statements or claims anticipated in questions 1-4 above are improper under Supreme Court Rule 601A, would those statements or claims be proper if they are made in response to statements or claims made by an opponent's supporters?

Answer: Yes. But such statements are governed by Section 5A(3)(e), 1995 Kan. Ct. R. Annot. 418, which reads:

"3 A candidate for judicial office

"(e) may respond to personal attacks or attacks on the candidate's record as long as the response does not violate Section 5A(3)(d)."


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