



JUDICIAL STANDARDS COMMISSION
STATE OF NORTH CAROLINA

FORMAL ADVISORY OPINION: 2010-03

April 9, 2010

QUESTION:

- 1) May a judge consult in the writing of a federal grant application to request funding for the production of instructional materials explaining the procedure to establish problem-solving courts for child support disputes?
- 2) May a judge publish a book for retail sale, based on the judge's experience in child support court that will feature true life stories of parents, some of whom still have matters pending, and how they became involved in the court system?

COMMISSION CONCLUSION:

The Judicial Standards Commission determined 1) the judge may consult in the writing of a federal grant to request funding for the production of instructional materials explaining the procedure to start a problem solving court for child support disputes. 2) During the judge's tenure in judicial office, the judge may not publish a book for personal profit that contains accounts of court proceedings involving parties that have appeared before the judge or currently have related matters pending before the court.

DISCUSSION:

A judge is prohibited from active assistance in raising funds for any cultural, educational, historical, religious, charitable, fraternal, civic, economic or legal organization or government agency by Canons 4C and 5B(2) of the Code of Judicial Conduct. In question 1) above, the judge's activities are not active assistance in raising funds. The grant request is not made in the name of nor is the grant signed by the judge.

Both Canons 4A and 5A of the Code allow a judge to engage in a variety of activities, specifically including writing, so long as the activities do not reflect adversely upon the judge's impartiality or interfere with the performance of the judge's judicial duties. In the course of these activities, Canon 3A(6) requires a judge to "abstain from public comment about the merits of any pending proceeding arising in North Carolina or addressing North Carolina law. However, a judge may discuss previously issued judicial decisions when teaching or lecturing as part of educational courses or programs." In addition, in financial and business dealings, a judge may not exploit the judge's judicial position nor use information acquired by the judge in the judge's official capacity for financial gain or any purpose unrelated to the judge's judicial duties. (Canons 5C(1) & 5C(7)).

In all things, a judge is required by Canons 1 and 2A of the Code to personally observe standards of conduct that both preserve and publicly promote confidence in the integrity and impartiality of the judiciary.

Thus, in question 2) above, while a judge may write on a variety of topics, a judge may not write about the personal travails of litigants, some of whom currently have matters pending before the court. Such conduct does not promote confidence in the integrity and impartiality of the judiciary, and no matter how well intentioned, appears to take advantage of the judge's judicial position. Such endeavors should be postponed until after one's judicial service has ended.

Reference:

North Carolina Code of Judicial Conduct

Canon 1

Canon 2A

Canon 3A(6)

Canon 4A

Canon 4C

Canon 5A

Canon 5B(2)

Canon 5C(1)

Canon 5C(7)