

COURT OF CHANCERY
OF THE
STATE OF DELAWARE

STEVEN P. LAMB
Vice-Chancellor

COURT HOUSE
WILMINGTON, DELAWARE 19801

May 25, 2000

JEAC 2000-2

, Esquire

Re: Opinion of the Judicial Ethics Advisory Committee

Dear Mr. :

You have requested an opinion from the Judicial Ethics Advisory Committee regarding whether you may participate in this year's Memorial Day Parade in Smyrna, Delaware, sponsored by the Veterans of Foreign Wars. Specifically, you asked whether your participation in the event would be consistent with the obligations of a judge under the Delaware Judges' Code of Judicial Ethics (the "Code"). The Committee has concluded that your participation would not be improper.

You are an attorney in private practice as well as a member of the State House of Representatives and have been nominated by Governor Carper for a judgeship on the Kent County Court of Common Pleas. The State Senate has not yet acted on your nomination. Consequently, you have not taken an oath of office and are not fully subject to the Code. We note, however, the comment to

, Esquire

May 25, 2000

Page 2 of 3

Canon 1 indicates that “[t]he Code is designed to provide guidance to judges and nominees for judicial office.” Thus, the Committee has determined that it is proper for you, a judicial nominee, to look to the Code for guidance in the conduct of your public affairs.

Your question relates to your desire to participate in the Memorial Day Parade at the invitation of the VFW. You indicated that you have previously participated in the event, apparently in your capacity as a State Representative. Your inquiry focuses on whether your status as a nominee for judicial appointment would bar your participation in the event.

As you point out, Canon 5B states that “[a] judge may participate in civic and charitable activities that do not reflect adversely upon the judge’s impartiality or interfere with the performance of judicial duties.” Further, Canon 5G specifically allows a judge to represent the state “in connection with historical, educational, and cultural activities.” Based on the facts presented in your letter, it appears that your participation in the event would be consistent with the standards articulated in these Canons. We perceive no basis to conclude that your appearance at this “historical, educational and cultural” activity will reflect adversely on your impartiality or on your performance of judicial duties, should you be confirmed.

, Esquire

May 25, 2000

Page 3 of 3

We do note, however, that Canon 7 generally proscribes political activity by judges. In particular, Canon 7A(2) provides that a judge should not make speeches on behalf of a political organization or candidate or “publicly endorse or oppose a candidate for public office.” Canon 7C further provides that a judge “should not engage in any other political activity except activity on behalf of measures to improve the law, the legal system or the administration of justice.” While recognizing that, as a State Representative, you continue to have duties of a political nature, we render this opinion with the understanding that your participation in the parade in question does not entail overtly political activity by you, including speaking for a political party or candidate or endorsing or opposing a candidate for public office. We note also that the “guidance” of Canon 7 of the Code will necessarily differ for members of the Judiciary than for an unconfirmed judicial nominee who holds political office, such as yourself.

The Committee’s advice to you is, of course, limited to the particular facts and circumstances presented by your letter.

For the Committee:

Steven P. Lamb,
Vice Chancellor

cc: Members of the Judicial Ethics Advisory Committee
The Hon. Randy J. Holland