

*Arizona Supreme Court
Judicial Ethics Advisory Committee*

ADVISORY OPINION 95-04
(March 21, 1995)

**Writing Articles about Judicial Process for
Publication in Local Newspapers**

Issue

May a judge write articles for publication about the reasoning process by which he or she reached a decision in a particular case?

Answer: If the case has not been fully resolved, including appeals, no. If the case has been fully resolved, yes.

Facts

A justice of the peace writes a column which appears regularly in a local newspaper. In some articles the judge discusses how he arrived at a decision in a particular case without any identifying information other than the situational facts.

Discussion

If a case has not been fully resolved and has not reached final disposition including all appellate processes, a judge is prohibited by Canon 3B(9) from making any public comment concerning the case which might affect its outcome or impair its fairness. Since a case which has not been fully adjudicated has the possibility of being remanded to the judge for further proceedings, a newspaper article in which a judge discusses how he or she arrived at a decision in a particular case which has not reached final disposition is prohibited.

If a case has reached its final disposition a judge may write about the case and discuss his or her reasoning process provided he or she does not violate other provisions of the code. Canon 4B, specifically, permits a judge to speak or write concerning the law, the legal system and the administration of justice. In addition, a judge may speak and write on nonlegal subjects.

Canons 2A and 4A require that any article which addresses a particular case be written in a manner which casts no reasonable doubts on the judge's capacity to act impartially. Any article must promote public confidence in the integrity and impartiality of the judiciary and must not demean the judicial office. An article must not in any way interfere with the proper performance of the judge's judicial duties. Additionally, Canon 3B(11) would prohibit the disclosure of any nonpublic information about the case which was acquired by the judge in his or her judicial capacity.

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If, at the time of the publication of the article the judge is also a judicial candidate, Canon 5B imposes further limitations. A judge, as a candidate, is prohibited from making a statement that commits or appears to commit the judge with respect to cases, controversies or issues that are likely to come before the court or to announce the judges views on disputed political or legal issues.

Subject to adherence to the foregoing limitations, the writing of an article for publication about the reasoning process by which a judge reached a decision in a particular case could be interesting, educational and informative.

Applicable Code Sections

Arizona Code of Judicial Conduct, Canons 2A, 3B, 4A and 5B (1993).