

*Arizona Supreme Court
Judicial Ethics Advisory Committee*

ADVISORY OPINION 93-04
(September 2, 1993)

**Effect of Judicial Appointment on Position
As Elected Tribal Official**

Issue

May an elected tribal official serve the balance of the term of his executive office after appointment as a justice of the peace?

Answer: No.

Facts

The president of a local chapter of an Indian tribe was recently appointed to fill the remaining term of a justice of the peace who resigned. A chapter presidency is an executive office attained through non-partisan election and a chapter president is primarily responsible for the tribal governmental unit. Since the boundaries of the chapter and the justice court precinct overlap, it is likely that some of the same electors would vote in elections for both offices.

Discussion

Canon 5 of the 1993 Code of Judicial Conduct requires a judge to refrain from political activity inappropriate to his judicial office. More specifically, Section A(4) of the canon requires a judge to resign his office when he becomes a candidate either in a party primary or in a general election for a non-judicial office. This appears to be the reverse of the issue at hand; nevertheless, we believe the intent of the preceding language contained in Canon 5 was to preclude any individual from holding both political and judicial office simultaneously. Furthermore, Section A(5) provides that a judge should not engage in any other political activity except on behalf of measures to improve the law, the legal system, or the administration of justice. Taken together, these sections reinforce the conclusion that holding executive and judicial elective offices simultaneously is inappropriate.

It is the opinion of the Advisory Committee that continuing to serve as chapter president after appointment to the justice court would clearly require involvement in the types of political activities that are precluded by Canon 5. (*See also* Ariz. Op. 82-01, which discusses a similar issue.)

Applicable Code Sections

Arizona Code of Judicial Conduct, Canon 5, Sections A(4) and A(5) (1993).

Other References

Arizona Judicial Ethics Advisory Committee, Opinion [82-01](#) (Jan. 22, 1982).