

*Arizona Supreme Court
Judicial Ethics Advisory Committee*

ADVISORY OPINION 95-02
(March 17, 1995)

**Membership in Criminal Defense Organizations
and Chamber of Commerce**

Issues

1. Can a newly-elected judge maintain memberships in the National Association for Criminal Defense Attorneys or the Arizona Attorneys for Criminal Justice? If so, can the judge hold a leadership position in these organizations?

Answer: No, as to both questions.

2. Can a judge maintain membership in a local chamber of commerce? If so, can the judge hold a leadership position in this organization?

Answer: Yes, with qualifications as to both questions.

3. May a judge's spouse be a member of the local chamber of commerce?

Answer: Yes.

Facts

A newly-elected justice of the peace is a member of the National Association for Criminal Defense Attorneys, the Arizona Attorneys for Criminal Justice, and the local chamber of commerce. He wants to know if his new position precludes him from continuing membership and holding leadership positions in these organizations. The judge's wife is also a member of the chamber of commerce.

Discussion

Issue 1

A judge may not maintain memberships in the National Association for Criminal Defense Attorneys or the Arizona Attorneys for Criminal Justice. One of the central themes of the Code of Judicial Conduct is that judges must perform their duties independently and impartially and cannot participate in any activity that might suggest the appearance of favoritism or call into question the integrity of the judiciary. *See* Canons 1A, 2A, 2B, 4A(1), 4C(4), 4C(4)(a), 4C(4)(b), and 5.

Membership in organizations that represent particular groups of attorneys, as opposed to the bar in general, would reflect adversely upon the impartiality of a judge and would not promote public confidence in the integrity and independence of the judiciary. This does not

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mean that the purposes or goals of these organizations are improper. We simply recognize that attorneys who join special interest groups do so to promote a specific point of view. These same attorneys regularly engage in adversary proceedings in the courts.

The bylaws of the Arizona Attorneys for Criminal Justice, in fact, disqualify from membership "any person engaged in a full-time judicial function, including any full-time judge, commissioner or referee." *See* Article V, Membership, Bylaws of the Arizona Attorneys for Criminal Justice, Inc. Although the National Association of Criminal Defense Lawyers does not disqualify judicial membership, their purpose or mission statement advocates and promotes criminal defense issues and lobbying activities to that end.

Relevant to this discussion is the compelling language found in Opinion 85-01:

The duty of judges to act in a professional manner in avoiding even the appearance of being potentially subject to outside influence is great. The linchpin of our judicial system is the principle that judges are and remain neutral and disinterested in all matters. A corollary to this principle is that judges be detached from all parties who may have any interest in matters *sub judice*, such as persons associated with law enforcement, criminal prosecution, and criminal defense.

This position is consistent with advisory opinions issued by other states. Our counterparts in Georgia, for example, have opined that it is inappropriate for a judge to be a dues-paying member of a plaintiffs' or defendants' trial lawyers association because membership in these organization would reflect adversely on the impartiality of a judge. *See* Ga. Op. 98. In Oregon, judges may attend seminars and conferences sponsored by such organizations but cannot belong to law-related special interest groups. *See* Or. Op. 82-1.

A judge cannot hold a leadership position in the two attorney associations, since membership itself is precluded.

Issue 2

A judge may become a member of a local chamber of commerce if the chamber refrains from engaging in any type of political conduct or endorsement and such organization is not conducted for the economic or political advantage of its members. The judge should be ever mindful of Canons 2, 4, and 5, since circumstances could arise whereby the judge might be required to relinquish membership. The bylaws of a chamber of commerce are often very general in nature relative to the scope and purpose of the organization. Therefore, constant re-examination of the actual and future activities of the group is required in order for a judge to maintain membership. *See* Ala. Op. 91-118, and S.C. Ops. 1-1988 and 4-1983.

With respect to the chamber of commerce, any leadership position must qualify under the provisions of Canon 4C(4). Further, as these organizations are involved with soliciting membership and funds, the judge must refrain from such activities. To do otherwise would place the judge in the position of using the prestige of office for that purpose. *See* the provisions of Canon 2B and 4C(4). The individual chamber of commerce organizations must

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be examined on a case by case basis to determine if their purpose and activities fall outside the provisions of Canon 4.

Issue 3

A judge's spouse may be a member of the chamber of commerce, but should not use the prestige of the judicial office for any economic or political advantage.

Applicable Code Sections

Arizona Code of Judicial Conduct, Canons 1A, 2A, 2B, 4A(1), 4C(4), 4C(4)(a), 4C(4)(b) and 5 (1993).

Other References

Arizona Judicial Ethics Advisory Committee, Opinion [85-01](#) (1985).

Alabama Judicial Inquiry Commission, Opinion 81-118 (1981).

Georgia Judicial Qualifications Commission, Opinion 98 (June 12, 1987).

Oregon Judicial Conduct Committee, Opinions 81-1, Issues 1 and 2 and Dissenting Opinion (1981); 82-1 (April 17, 1982).

South Carolina Advisory Committee on Standards of Judicial Conduct, Opinions 4-1983 (May 27, 1983); 1-1988 (Jan. 7, 1988).

Bylaws of Arizona Attorneys for Criminal Justice, Inc. (A Non-Profit Arizona Corporation) (adopted March 9, 1994).

Bylaws of the National Association of Criminal Defense Lawyers (1994).